

CIVIL RIGHTS

HEARINGS

BEFORE

SUBCOMMITTEE NO. 5

OF THE

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH CONGRESS

FIRST SESSION

ON

**H.R. 300, 351, 352, 353, 400, 430, 461, 617, 618, 619, 759, 913,
914, 1902, 2346, 2479, 2538, 2786, 3090, 3147, 3148, 3212,
3559, 4169, 4261, 4338, 4339, 4342, 4348, 4457, 5008, 5170,
5189, 5217, 5218, 5276, 5323, 6934, 6935**

MISCELLANEOUS BILLS REGARDING THE CIVIL RIGHTS OF
PERSONS WITHIN THE JURISDICTION OF
THE UNITED STATES

MARCH 4, 5, 11, 12, 13, 18, 19; APRIL 14, 15, 16, 17, 22, 23, 24, 29, 30;
MAY 1, 1959

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CONTENTS

| | Page |
|--|----------|
| Text of bills..... | 1-146 |
| Statement of— | |
| Abbitt, Hon. Watkins M., Representative from Virginia..... | 659 |
| Addonizio, Hon. Hugh J., Representative from New Jersey..... | 432 |
| Alford, Hon. Dale, Representative from Arkansas..... | 522 |
| Alger, Hon. Bruce, Representative from Texas..... | 751 |
| Barnes, Rev. John, Hattiesburg branch, NAACP, Hattiesburg, Miss..... | 783 |
| Blanshard, Mrs. Paul, executive director, Unitarian Fellowship for Social Justice..... | 458 |
| Bloch, Charles J., attorney at law, State of Georgia..... | 569 |
| Bookbinder, Hyman H., legislative representative of the AFL-CIO..... | 372 |
| Brown, Edgar A., president pro tem of the Senate of the State of South Carolina..... | 470, 514 |
| Brownfield, Lyman, General Counsel, Housing and Home Finance Agency..... | 421 |
| Caldwell, Hon. Millard F., former Governor, State of Florida..... | 667 |
| Campbell, Hon. Boyd, president, Mississippi School Supply Co., Jackson, Miss..... | 653 |
| Celler, Hon. Emanuel, Representative from New York..... | 944, 950 |
| Cohelan, Hon. Jeffery, Representative from California..... | 868 |
| Colmer, Hon. William M., Representative from Mississippi..... | 607, 693 |
| Darden, Charles R., president, Mississippi State Conference of NAACP Branches, Meridian, Miss..... | 801 |
| Davis, Hon. James C., Representative from Georgia..... | 919 |
| Dawson, Hon. William L., Representative from Illinois..... | 175 |
| Dingell, Hon. John D., Representative from Michigan..... | 197 |
| Dockhorn, Mrs. Wayne, member, national board, U.S. section, Women's International League for Peace and Freedom..... | 448 |
| Dollinger, Hon. Isidore, Representative from New York..... | 174 |
| Dorn, Hon. W. J. Bryan, Representative from South Carolina..... | 919 |
| Edelsberg, Herman, Director, Anti-Defamation League of B'nai B'rith..... | 273 |
| Elliott, Hon. Carl, Representative from Alabama..... | 860 |
| Engel, Irving M., President, American Jewish Committee..... | 940 |
| Flemming, Hon. Arthur S., Secretary, Department of Health, Edu- cation, and Welfare..... | 299 |
| Forrester, Hon. E. L., Representative from Georgia..... | 561 |
| Fowler, Andrew, director, Washington Bureau, National Fraternal Council of Churches, U.S.A., Inc..... | 445 |
| Gallion, Hon. MacDonald, attorney general, Alabama..... | 755 |
| Gartin, Hon. Carroll, Lieutenant Governor of the State of Mississippi..... | 658 |
| Goodrich, Hon. Ernest W., Commonwealth's attorney for Surry County, Surry, Va..... | 660 |
| Grant, Hon. George M., Representative from Alabama..... | 754 |
| Gravatt, Hon. J. Segar, attorney at law, Blackstone, Va..... | 634 |
| Gressette, L. Marion, chairman, Senate Judiciary Committee, State of South Carolina..... | 470, 516 |
| Halpern, Hon. Seymour, Representative from New York..... | 467 |
| Hannah, Dr. John A., Chairman, Commission on Civil Rights..... | 251 |
| Hartnett, Al, secretary-treasurer, International Union of Electrical, Radio and Machine Workers, AFL-CIO..... | 281 |
| Hemphill, Hon. Robert W., Representative from South Carolina..... | 808 |
| Hollings, Hon. Ernest F., Governor of the State of South Carolina..... | 470 |
| Huddleston, Hon. George, Jr., Representative from Alabama..... | 776 |

| | Page |
|--|----------|
| Jones, Hon. R. E., Jr., Representative from Alabama | 671 |
| Kearns, Hon. Carroll D., Representative from Pennsylvania | 201 |
| Kiley, Robert R., president, U.S. National Student Association | 462 |
| Lechliter, Irvin, executive director, American Veterans Committee | 268 |
| Lindsay, Hon. John V., Representative from New York | 158 |
| Livingston, Hon. Willard W., chief assistant attorney general of Alabama | 777 |
| Masaoka, Mike M., Washington representative, Japanese American Citizens League | 948 |
| Maslow, Will, Esq., general counsel, American Jewish Congress | 350 |
| Mason, Hon. Norman P., Administrator, Housing and Home Finance Agency | 421 |
| Matthews, Hon. D. R. (Billy), Representative from Florida | 917 |
| Mills, Edward K., Jr., Deputy Administrator, General Services Administration | 260 |
| Minnick, Capt. John B., U.S. Marine Corps Reserve, retired | 620 |
| Mitchell, Clarence, director of the Washington Bureau, NAACP | 781 |
| Mitchell, Hon. James P., Secretary of Labor | 321 |
| Mounger, Breed C., president, Mississippi Bar Association | 608 |
| McCanless, Hon. George F., attorney general, Tennessee | 747 |
| McCray, John H., State chairman, South Carolina Progressive Democratic Organization | 546 |
| McCulloch, Hon. William, Representative from Ohio | 148 |
| McLeod, Hon. Daniel R., attorney general, South Carolina | 470 |
| McNair, Robert E., chairman, House Judiciary Committee, State of South Carolina | 470, 516 |
| McSween, Hon. Harold B., Representative from Louisiana | 870 |
| Nix, Hon. Robert N. C., Representative from Pennsylvania | 293 |
| Odum, Hon. Ralph, assistant attorney general of the State of Florida | 533 |
| O'Hara, Hon. Barratt, Representative from Illinois | 914 |
| Parler, Barrington D., Esq., D.C. Federation of Civic Associations, Inc. | 447 |
| Patterson, Hon. Joe T., attorney general of Mississippi | 693 |
| Patterson, Hon. John, Governor of Alabama | 675 |
| Perez, Hon. Leander H., district attorney, 25th Judicial District, Louisiana | 831 |
| Poff, Hon. Richard H., Representative from Virginia | 166 |
| Pope, Thomas H., chairman, South Carolina Democratic Party | 470, 516 |
| Powell, Hon. Adam C., Jr., Representative from New York | 169 |
| Rains, Hon. Albert, Representative from Alabama | 851 |
| Rauh, Joseph, vice chairman, Americans for Democratic Action | 892 |
| Rivers, Hon. L. Mendel, Representative from South Carolina | 469 |
| Roberts, Hon. Kenneth A., Representative from Alabama | 849 |
| Rogers, William P., Hon., Attorney General of the United States | 205 |
| Roosevelt, Hon. James, Representative from California | 286 |
| Roosevelt, John A., public member, President's Committee on Government Contracts | 453 |
| Selden, Hon. Armistead I., Jr., Representative from Alabama | 742 |
| Sifton, Paul, national legislative representative of the United Automobile Workers | 388 |
| Smith, Hon. Frank E., Representative from Mississippi | 519 |
| Tiffany, Gordon M., staff director, Commission on Civil Rights | 253, 904 |
| Tuck, Hon. William M., Representative from Virginia | 633 |
| Tuggle, Hon. Kenneth H., Chairman, Interstate Commerce Commission | 401 |
| Vandiver, Hon. Ernest, Governor of the State of Georgia | 562 |
| Vanik, Hon. Charles A., Representative from Ohio | 864 |
| Weitzer, Bernard, national legislative director, Jewish War Veterans Whitehouse, Albert T., director, Industrial Union Department, AFL-CIO | 435 |
| Whitten, Hon. Jamie L., Representative from Mississippi | 398 |
| Wilkins, Roy, executive secretary, NAACP | 852 |
| Wilkinson, W. Scott, Esq., attorney at law, Shreveport, La | 334 |
| Williams, Hon. John B., Representative from Mississippi | 874 |
| Willis, Hon. Edwin E., Representative from Louisiana | 712 |
| Winstead, Hon. Arthur, Representative from Mississippi | 819, 873 |
| Zelenko, Hon. Herbert, Representative from New York | 919 |
| | 196 |

DOCUMENTS

| | Page |
|--|----------|
| Letter to Hon. A. Paul Kitchen, Representative from North Carolina, from Hon. Luther H. Hodges, Governor of North Carolina..... | 891 |
| Letter of H. I. Bearden, president, Atlanta branch, NAACP..... | 949 |
| Statement of various national and local Jewish organizations..... | 940, 274 |
| Statement of International Longshoremen's and Warehousemen's Union..... | 953 |
| Letter of Amalgamated Meat Cutters' and Butcher Workmen of North America..... | 954 |
| Telegram of August Scholle, president, Michigan State AFL-CIO..... | 955 |
| Telegram of Paulsen Spence, Baton Rouge, La..... | 955 |
| Telegram of Roy Wilkins, NAACP, New York..... | 955 |
| Telegram of Margaret B. Wilson, St. Louis branch, NAACP..... | 956 |
| Telegram of Herbert L. Taylor, St. Louis, Mo..... | 956 |
| Statement of Liberal Party of New York State..... | 956 |
| Letter of Ross R. Barnett, Esq., Jackson, Miss..... | 957 |
| Report, Department of the Air Force, March 11, 1959..... | 959 |
| Letter of Civil Aeronautics Board, March 4, 1959..... | 960 |

CIVIL RIGHTS

WEDNESDAY, MARCH 4, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE No. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:15 a.m., in room 346, Old House Office Building, Hon. Emanuel Celler (chairman) presiding.

Present: Representatives Celler, Rogers, Donohue, Holtzman, Toll, McCulloch, and Meader.

Also present: William R. Foley, general counsel and Richard C. Paet, associate counsel.

The CHAIRMAN. The committee will come to order. This committee will start the hearings on so-called civil rights and at this point we will insert the bills which have been introduced by various members of Congress which are H.R. 300, H.R. 351, H.R. 352, H.R. 353, H.R. 400, H.R. 430, H.R. 461, H.R. 617, H.R. 618, H.R. 619, H.R. 759, H.R. 913, H.R. 914, H.R. 1902, H.R. 2346, H.R. 2479, H.R. 2538, H.R. 2786, H.R. 3090, H.R. 3147, H.R. 3148, H.R. 3212, H.R. 3659, H.R. 4169, H.R. 4261, H.R. 4338, H.R. 4339, H.R. 4342, H.R. 4348, H.R. 4457, and H.R. 5008, and they will be made a part of the record at this point.

(The bills referred to follow:)

[H.R. 300, 86th Cong., 1st sess.]

A BILL To protect and enforce the constitutional right of all persons to the equal protection of the laws, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1959"

SEC. 2. (a) The Congress hereby finds and declares the following facts to exist:

(1) The decisions of the courts of the United States holding that racial segregation compelled by statute or regulation is unconstitutional and violates the constitutional right to the equal protection of the laws, express the moral ideals of the Nation and the world and point the way to enhancing the honor, strength and dignity of our Nation at home and throughout the world.

(2) These antisegregation decisions are being resisted or evaded in many areas of the Nation, thereby denying to millions of persons within our borders their constitutional rights to the equal protection of the laws,

(3) Several States, and many municipalities, school districts, and other local governmental units have failed to make a prompt and reasonable start toward full compliance with the Supreme Court's decisions in the field of public education despite the substantial time which has already elapsed since the promulgation of those decisions in 1954 and 1955,

(4) The constitutional right to the equal protection of the laws is being denied to many persons because of race, color, religion, ancestry, or national origin in many aspects of their life, and such denials impose on millions of

citizens in the United States a status of second-class citizenship and deprive the Nation of the maximum development and maximum benefits that can be contributed by such persons,

(5) Legislative and executive action is necessary to protect and guarantee to all persons in the United States their constitutional rights to equal protection of the laws,

(6) The present system whereby individual plaintiffs in the Federal courts bear the burden of protecting constitutional rights is not the most effective means of protecting the constitutional right to equal protection of the laws, particularly where local restrictive and punitive measures are used against any individual or organization engaging in, and supporting, efforts to assert those constitutional rights in the courts. Action by the executive branch of the Federal Government to support the constitutional right to equal protection of the laws is often a more rational, uniform, just, and effective way of protecting constitutional rights than the present procedure under which the safeguarding of such constitutional rights is determined by the varying resources and courage of individuals and organizations and by the varying legal and other restrictions placed upon them. Such action by the Federal Government will render less effective, and hence tend to reduce, hostile community pressures upon individuals and organizations seeking to safeguard constitutional rights, and

(7) The initial responsibility for equal protection of the laws rests upon each State, municipality, school district, or other local governmental unit having responsibility for the enactment and administration of laws or regulations, or the supervision of any public facility, but the Federal Government, in order to maintain a more perfect union, extend justice, promote the common defense, and secure the blessings of liberty to all persons, also has a responsibility to guarantee the constitutional right to the equal protection of the laws, to prevent denials of that right when State or local authorities cannot or will not do so, and thus to enhance the Nation's strength and its respect throughout the world.

TITLE I—TECHNICAL ASSISTANCE BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE

SEC. 101. The Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the "Secretary") is hereby authorized to render technical assistance to aid in eliminating or preventing denials of constitutional rights by reason of race, color, religion, ancestry, or national origin and to aid States, municipalities, school districts and other local governmental units to come into compliance with the decisions of the Supreme Court by—

(a) assembling, publishing, and distributing information which, in his judgment, will prove helpful in obtaining public understanding of, and compliance with, the Constitution and the decisions of the Supreme Court holding racial segregation unconstitutional;

(b) surveying the progress made in eliminating racial segregation in various parts of the country and making available to public agencies and private organizations and individuals the results of such surveys, including wherever possible successful case histories of desegregation and the ways and means utilized to bring about such desegregation;

(c) planning, calling, and holding local, State, regional, and national conferences attended by State and local officials, representatives of private organizations, and private citizens, to discuss ways and means of eliminating compulsory racial segregation generally or in any particular State, municipality, school district, or other local governmental unit;

(d) appointing local, State, regional, and national advisory councils to assist the Secretary in carrying out his duties under this Act and to offer their assistance to any State, municipality, school district, or other local governmental unit to come into compliance with the Constitution and the decisions of the Supreme Court in regard to racial segregation and other forms of racial discrimination;

(e) reporting to the Congress, at least semi-annually, concerning the progress being made in eliminating segregation in various parts of the country; and

(f) assisting, by such other related means as he deems appropriate, States, municipalities, school districts, and other local governmental units to eliminate compulsory racial segregation.

SEC. 102. The Secretary shall recruit, employ, and train specialists in preparing, putting into effect, and carrying out plans for eliminating compulsory

racial segregation in public education and shall offer the services of such specialists to States, municipalities, school districts, and other local governmental units. Upon request of any State, municipality, school district, or other local governmental unit, the Secretary shall make available to the requesting governmental unit the services of one or more specialists for such periods of time and in such numbers as the Secretary deems necessary and appropriate in the light of the particular needs of the requesting governmental units.

Sec. 103. (a) The Secretary is authorized to reimburse any State or local official, representative of a private organization, or private citizen who is invited by him to attend any local, State, regional, or national conference held under the authority of section 101 (c) any member of an advisory council appointed under the authority of section 101 (d) who is carrying out authorized functions, and any State or local official who, with the approval of the Secretary, is invited to confer with one or more specialists employed by the Secretary under section 102, for travel expenses actually incurred, and to pay to any such person per diem in lieu of subsistence, in the same amounts as authorized by law (5 U.S.C. 73b-2) for persons in the Government service serving without compensation.

Sec. 104. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1959, and for each of the four succeeding fiscal years, such amounts not to exceed \$3,000,000 in any fiscal year as may be necessary for carrying out the purposes of this title.

TITLE II—GRANTS TO AREAS WHERE RACIAL DESEGREGATION IN PUBLIC EDUCATION IS BEING CARRIED OUT

Sec. 201. (a) The Secretary is authorized to make grants to States, municipalities, school districts, and other local governmental units which maintained racial segregation in their public schools on May 17, 1954, and which makes application for such grants, to assist in meeting the costs of additional educational measures undertaken or to be undertaken to further the process of eliminating racial segregation in the public schools of the applicant State, municipality, school district, or local governmental unit, while at the same time assuring that existing educational standards will not be lowered.

(b) Grants may be made under this section for—

(1) the cost of employing additional schoolteachers;

(2) the cost of giving to teachers and other school personnel in-service training in dealing with problems incident to racial desegregation;

(3) the cost of employing specialists in problems incident to racial desegregation and of providing other assistance to develop understanding by parents, schoolchildren, and the general public of plans and efforts for eliminating racial segregation in the schools in order to reduce the possibility of community hostility or unlawful resistance to such plans and efforts; and

(4) other costs directly related to the process of eliminating racial segregation in public schools, including the replacement of State payments to a school district or other political subdivision withdrawn because the applicant district or subdivision is eliminating or is starting to eliminate racial segregation.

(c) Grants may also be made under this section for the construction, enlargement, or alteration of school facilities when the Secretary finds that lack or inadequacy of existing facilities makes the carrying out of any reasonable plan for racial desegregation without lowering existing educational standards impracticable or materially more difficult.

(d) Each application made for a grant under this section shall provide such detailed breakdown of the additional educational measures for which financial assistance is sought the Secretary may by regulations prescribe.

(e) Each grant under this section shall be made in such amounts and on such terms and conditions as the Secretary shall prescribe, which may include a condition that the applicant expend funds in specified amounts for the purpose for which the grant is made. In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Secretary shall take into consideration—

(1) the amount available for grants under this section and the other applications which are pending before him,

(2) the financial condition of the applicant and the other resources available to it,

(3) the nature, extent, and gravity of its problems incident to racial desegregation,

(4) whether the additional educational measures undertaken or to be undertaken are reasonably and effectively designed to further the process of eliminating racial segregation, while at the same time assuring that existing educational standards will not be lowered, and

(5) such other factors as he finds relevant.

SEC. 202. The Secretary is further authorized to make grants to public or other nonprofit educational institutions of higher learning to meet or assist in meeting the cost of short-term training courses or institutes, not to exceed four weeks in duration, for personnel of public schools or of educational agencies engaged in or about to undertake racial desegregation, designed to enable such personnel to deal more effectively with problems incident to such desegregation. Such grants may also be used by such institutions to establish and maintain fellowships for such training courses or institutes, covering tuition, fees, and such stipends and allowances (including travel and subsistence expenses) as may be determined by the Secretary.

SEC. 203. Payments of grants under sections 201 and 202 may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary may determine.

SEC. 204. (a) There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1959, and for each of the four succeeding fiscal years, such sums, not exceeding \$50,000,000 for any fiscal year, as may be necessary to carry out the provisions of this title.

(b) In making grants from funds appropriated for any fiscal year for the purposes specified in section 201(b), the Secretary may disregard applications received after August 31 in that fiscal year, or may subordinate such applications to applications received before that date. In the event that he receives, either before or after that date, applications for grants for the purpose specified in section 201(b), or applications for grants for the purpose specified in section 201(c), whose expenditure he considers would materially contribute to carrying out the purposes of this title, but which he cannot grant, in whole or in part, because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

TITLE III--ELIMINATING RACIAL SEGREGATION IN PUBLIC EDUCATION

SEC. 301. The Secretary shall make every effort to persuade States, municipalities, school districts, and other local governmental units to make a start toward eliminating racial segregation in public education and to carry out in full such programs as they may start, and to this end he shall utilize the authority provided in titles I and II.

SEC. 302. Whenever the Secretary shall find that all efforts under titles I and II and under section 301 of this title have failed, and continue to fail, in bringing about a start toward the elimination of racial segregation in public education in any State, municipality, school district, or other local governmental unit, the Secretary is authorized to prepare a tentative plan for the elimination of racial segregation in public education in such State, municipality, school district, or other local governmental unit. In preparing such a tentative plan, the Secretary shall seek the advice and assistance of public officials, private organizations, and private citizens in the area and of any local, State, regional, or national advisory council appointed pursuant to section 101(d); and he shall carefully consider such advice and assistance wherever available. Tentative plans prepared by the Secretary under the authority of this section shall take into account the need of the particular area for time to make an orderly adjustment and transition from racially segregated to desegregated schools.

SEC. 303. (a) Whenever the Secretary has prepared a tentative plan for the elimination of racial segregation in public education in any State, municipality, school district, or other local governmental unit, he shall forward the plan to the governor, mayor, or other appropriate official, as the case may be. If the State, municipality, school district, or other local governmental unit agrees to put into effect the tentative plan as proposed by the Secretary or as modified by the State, municipality, school district, or other local governmental unit with the consent of the Secretary, the Secretary shall utilize the authority

granted in titles I and II to assist the State, municipality, school district, or other local governmental unit in putting into effect the tentative plan.

(b) If the State, municipality, school district, or other local governmental unit (1) does not agree to put into effect the tentative plan as proposed by the Secretary or as modified with his consent, or (2) after agreeing to the tentative plan as so proposed or modified, does not, in the judgment of the Secretary, carry out such tentative plan, the Secretary shall hold a public hearing upon the tentative plan. Notice of such hearing shall be given to the local authorities concerned by registered mail and notice shall be given to private organizations and private citizens within the area by publication in one or more newspapers. Local authorities, private organizations, and private citizens shall be permitted to participate in the hearing and present evidence and argument in favor of, or in opposition to, the tentative plan, any amendments thereto, or any plan, but cumulative evidence may be excluded in the discretion of the Secretary. Anyone shall be permitted to file a written statement with the Secretary in addition to, or in lieu of, personal appearance at the public hearing.

(c) After the hearing provided in subsection (b) has been concluded, the Secretary shall prepare and issue an approved plan for eliminating racial segregation in public education in the State, municipality, school district, or other local governmental unit. He shall publish the approved plan in the Federal Register and in one or more newspapers in the area affected thereby and shall transmit a certified copy thereof to the appropriate official of the State, municipality, school district, or other local governmental unit involved.

(d) In order that the proceedings under this title shall expedite the elimination of racial segregation in any State, municipality, school district, or other local governmental unit, the Secretary shall handle all proceedings under this title as expeditiously as possible. The Secretary shall complete any proceedings hereunder within one year from the time that a tentative plan is forwarded to the governor, mayor, or other appropriate official under section 303(a), or, in case a State, municipality, school district, or other local governmental unit agrees to a tentative plan but does not carry it out, within six months from the time that the Secretary determines that such State, municipality, school district, or other local governmental unit is not carrying out such tentative plan.

SEC. 304. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1959, and for each of the four succeeding fiscal years, such amounts as may be necessary for carrying out the purposes of this title.

SEC. 305. The Secretary is authorized to carry out his responsibilities and exercise his authority under this title and under titles I and II through designated personnel in his own office or through any existing bureau, division, or agency of the Department of Health, Education, and Welfare or through a new office created by him for the special purpose of exercising the Secretary's responsibilities hereunder, except that the Secretary shall personally review and sign any approved plan issued under section 303(c).

SEC. 306. (a) Whenever (1) the Secretary has published in the Federal Register an approved plan for the elimination of racial segregation in public education in any State, municipality, school district, or other local governmental unit pursuant to section 303(c), (2) the State, municipality, school district, or other local governmental unit has rejected the plan or has refused or failed to act in accordance therewith, and (3) the Secretary has certified to the Attorney General that all efforts to secure compliance with the Constitution and the Supreme Court's decisions by conciliation, persuasion, education, and assistance under titles I, II, and III have failed, the Attorney General of the United States is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against the appropriate officials of the State, municipality, school district, or other local governmental unit, and any individual or individuals acting in concert with such officials, to enforce compliance with the approved plan.

(b) The Attorney General is authorized to move to dismiss or discontinue any action brought under subsection (a) of this section, or to propose or to agree to a decree adopting a plan for elimination of racial segregation in public education which is different from the approved plan, whenever he determines that the State, municipality, school district, or other local governmental unit is making, or is prepared to make, a prompt and reasonable start toward full compliance with the Constitution and the Supreme Court's decisions in the field of education and to work toward full compliance with all deliberate speed.

(c) Any person may, with the leave of the court, intervene in any action

brought under subsection (a) of this section, and the court shall consider any proposals by the intervenors, as well as by the parties, in determining its final decree.

TITLE IV—SUITS BY THE ATTORNEY GENERAL TO INSURE THE RIGHT TO EQUAL PROTECTION OF THE LAWS

SEC. 401. (a) Whenever the Attorney General receives a signed complaint that any person or group of persons is being deprived of, or is being threatened with the loss of, the right to the equal protection of the laws by reason of race, color, religion, ancestry, or national origin and the Attorney General certifies that, in his judgment, such person or group of persons is unable for any reason to obtain effective legal protection for the right to the equal protection of the laws, the Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or subdivision or instrumentality thereof, deprives or threatens to deprive such person or group of persons of the right to equal protection of the laws by reason of race, color, religion, ancestry, or national origin and against any individual or individuals acting in concert with them.

(b) A person or group of persons shall be deemed unable to obtain effective legal protection for the right to the equal protection of the laws within the meaning of subsection (a) of this section when such person or group of persons is financially unable to bear the expenses of the litigation, or when there is reason to believe that the institution of such litigation would jeopardize the employment or other economic activity of, or might result in physical harm or economic damage to, such person or group of persons or their families.

(c) Nothing contained in title III shall limit the authority of the Attorney General to institute and maintain an action under subsection (a) of his section.

SEC. 402. The Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for injunction or other order, (1) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder, any Federal, State, or local official from according any person or group of persons the right to the equal protection of the laws without regard to race, color, religion, ancestry, or national origin, or (2) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder the execution of any court order protecting the right to the equal protection of the laws without regard to race, color, religion, ancestry, or national origin.

SEC. 403. The Attorney General is authorized, upon receipt of a signed complaint, to institute for or in the name of the United States, a civil action or other proceeding for preventive relief, including an application for injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or subdivision or instrumentality thereof, deprives or threatens to deprive any person or group of persons or association of persons of any right guaranteed by the fourteenth amendment of the Constitution because such person or group of persons or association of persons has opposed or opposes the denial of the equal protection of the laws to others because of race, color, religion, ancestry, or national origin.

SEC. 404. Whenever a suit is brought in any district court of the United States seeking relief from the deprivation of the right of equal protection of the laws because of race, color, religion, ancestry, or national origin, the Attorney General is authorized to intervene in such action with all the rights of a party thereto and to seek compliance with any lawful order issued by such district court.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. The district courts of the United States shall have jurisdiction of proceedings instituted under section 306 or title IV of this Act and shall exercise the same without regard to whether any administrative or other remedies that may be provided by law shall have been exhausted and, in the case of proceedings instituted under title IV, without regard to whether any administrative proceeding is pending or contemplated under title III, it being the purpose

of title III to expedite, not delay, the elimination of racial segregation in public education throughout the Nation. In any proceeding hereunder, the United States shall be liable for costs the same as a private person.

SEC. 502. Nothing in this Act or in any administrative proceeding hereunder shall be construed to impair any right guaranteed by the Constitution or laws of the United States or any remedies already existing for their protection or enforcement, nor to prevent any private individual or organization from acting to enforce or safeguard any constitutional right in any manner now permitted by law.

SEC. 503. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

[H.R. 351, 86th Cong., 1st sess.]

A BILL To protect the right of individuals to be free from discrimination or segregation by reason of race, color, religion, or national origin

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened, and that such infringements upon the American principle of freedom and equality endanger our form of government and are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded and which distinguishes it from the totalitarian nations. The Congress recognizes that it is essential to the national security and the general welfare that this gap between principle and practice be closed; and that more adequate protection of the civil rights of individuals be provided to preserve our American heritage, halt the undermining of our constitutional guaranties, and prevent serious damage to our moral, social, economic, and political life, and to our international relations.

(b) The Congress, therefore, declares that it is its purpose to strengthen and secure the civil rights of the people of the United States under the Constitution, and that it is the national policy to protect the right of the individual to be free from discrimination or segregation based upon race, color, religion, or national origin.

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(1) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(2) To safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials.

(3) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or religion, in accordance with the undertaking of the United States under the United Nations Charter.

(d) To the end that these policies may be effectively carried out by a positive program of Federal action the provisions of this Act as enacted.

SEPARABILITY

SEC. 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

APPROPRIATIONS AUTHORIZED

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

**TITLE I—FOR THE BETTER ASSURANCE OF THE PROTECTION OF
CITIZENS OF THE UNITED STATES AND OTHER PERSONS WITHIN
THE SEVERAL STATES FROM MOB VIOLENCE AND LYNCHING, AND
FOR OTHER PURPOSES**

PURPOSE

SEC. 101. The provisions of this title are enacted in exercise of the power of Congress to enforce, by appropriate legislation, the provisions of the fourteenth amendment to the Constitution of the United States and for the purpose of better assuring by the several States under said amendment equal protection and due process of law to all persons charged with or suspected or convicted of any offense within their jurisdiction.

DEFINITIONS

SEC. 102. Any assemblage of two or more persons which shall, without authority of law, (a) commit or attempt to commit violence upon the person of any citizen or citizens of the United States because of his or their race, religion, color, national origin, ancestry, or language, or (b) exercise or attempt to exercise, by physical violence against the person, any power of correction or punishment over any citizen or citizens of the United States or other person or persons in the custody of any peace officer or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such citizen or citizens, person or persons, or of imposing a punishment not authorized by law, shall constitute a lynch mob within the meaning of this title. Any such violence by a lynch mob shall constitute lynching within the meaning of this title.

PUNISHMENT FOR LYNCHING

SEC. 103. Any person whether or not a member of a lynch mob who willfully instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, and any member of a lynch mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding \$10,000 or by imprisonment not exceeding twenty years, or by both such fine and imprisonment.

PUNISHMENT FOR FAILURE TO PREVENT LYNCHING

SEC. 104. Whenever a lynching shall occur, any officer or employee of a State or any governmental subdivision thereof, who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any officer or employee of a State or governmental subdivision thereof who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching, and any officer or employee of a State or governmental subdivision thereof who, in violation of his duty as such officer or employee, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding \$5,000 or by imprisonment not exceeding five years, or by both such fine and imprisonment.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 105. Whenever a lynching of any person or persons shall occur, and information on oath is submitted to the Attorney General of the United States that any officer or employee of a State or any governmental subdivision thereof who shall have been charged with the duty or shall have possessed the authority as such officer or employee to protect such person or persons from lynching, or who shall have had custody of the person or persons lynched, has neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching or that any officer or employee of a State or governmental subdivision thereof, in violation of his duty as such officer or employee, has neglected, refused, or willfully failed to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, the Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this title.

COMPENSATION FOR VICTIMS OF LYNCHING

SEC. 106. (1) Every governmental subdivision of a State to which the State shall have delegated functions of police shall be responsible for any lynching occurring within its territorial jurisdiction. Every such governmental subdivision shall also be responsible for any lynching which follows upon the seizure and abduction of the victim or victims within its territorial jurisdiction, irrespective of whether such lynching occurs within its territorial jurisdiction or not. Any such governmental subdivision which shall fail to prevent any such lynching or any such seizure and abduction followed by lynching shall be liable to each individual who suffers injury to his or her person, or to his or her next of kin if such injury results in death, for a sum of not less than \$2,000 and not more than \$10,000 as monetary compensation for such injury or death: *Provided, however*, That the governmental subdivision may prove by a preponderance of evidence as an affirmative defense that the officers thereof charged with the duty of preserving the peace, and the citizens thereof, when called upon by any such officer, used all diligence and all powers vested in them for the protection of the person lynched: *And provided further*, That the satisfaction of judgment against one governmental subdivision responsible for a lynching shall bar further proceedings against any other governmental subdivision which may also be responsible for that lynching.

(2) Liability arising under this section may be enforced and the compensation herein provided for may be recovered in a civil action in the United States district court for the judicial district of which the defendant governmental subdivision is a part. Such action shall be brought and prosecuted by the Attorney General of the United States in the name of the United States for the use of the real party in interest, or, if the claimant or claimants shall so elect, by counsel employed by the claimant or claimants, but in any event without prepayment of costs. If the amount of any such judgment shall not be paid upon demand, payment thereof may be enforced by any process available under the State law for the enforcement of any other money judgment against such governmental subdivision. Any officer of such governmental subdivision or any other person who shall disobey or fail to comply with any lawful order or decree of the court for the enforcement of the judgment shall be guilty of contempt of that court and punished accordingly. The cause of action accruing hereunder to a person injured by lynching shall not abate with the subsequent death of that person before final judgment but shall survive to his or her next of kin. For the purpose of this title the next of kin of a deceased victim of lynching shall be determined according to the laws of intestate distribution in the State of domicile of the decedent. Any judgment or award under this title shall be exempt from all claims of creditors.

(3) Any judge of the United States district court for the judicial district wherein any suit shall be instituted under the provisions of this title may by order direct that such suit be tried in any place in such district as he may designate in such order: *Provided*, That no such suit shall be tried within the territorial limits of the defendant governmental division.

CRIMINAL PROVISION

SEC. 107. The crime defined in and punishable under title 18, United States Code, section 1202 (a), shall include the transportation in interstate or foreign commerce of any person unlawfully abducted and held for purposes of punishment, correction, or intimidation.

SHORT TITLE

SEC. 108. This title may be cited as the "Federal Anti-Lynching Act".

TITLE II—PROVISIONS TO STRENGTHEN PROTECTION OF THE INDIVIDUAL'S RIGHTS TO LIBERTY, SECURITY, CITIZENSHIP AND ITS PRIVILEGES

PART A—AMENDMENTS AND SUPPLEMENTS TO EXISTING CIVIL-RIGHTS STATUTES

VIOLATION OF RIGHTS OF OTHERS

SEC. 201. Title 18, United States Code, section 241, is amended to read as follows:

"§ 241. CONSPIRACY AGAINST RIGHTS OF CITIZENS

"(a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right of privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise of enjoyment of any right or privilege so secured, they shall be fined not more than \$5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than \$1,000 or imprisoned not more than one year, or both; or shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsections (a) and (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code, and the United States court of any Territory or other place subject to the jurisdiction of the United States."

DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

SEC. 202. Title 18, United States Code, section 242, is amended to read as follows:

"§ 242. DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than \$1,000 or imprisoned not more than one year, or both; or shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

CERTAIN RIGHTS PROTECTED UNDER SECTION 242, TITLE 18, UNITED STATES CODE

SEC. 203. (a) Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"§ 242A. CERTAIN RIGHTS PROTECTED UNDER SECTION 242

"The rights, privileges, and immunities referred to in section 242 of this title shall be deemed to include, but shall not be limited to, the following:

"(1) the right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

(b) The analysis of chapter 13 of title 18 of the United States Code is amended by adding immediately below

"242. Deprivation of rights under color of law."

the following:

"242A. Certain rights protected under section 242."

ENTICEMENT INTO SLAVERY

SEC. 204. Title 18, United States Code, section 1583, is amended to read as follows:

"§ 1583. ENTICEMENT INTO SLAVERY

"Whoever holds or kidnaps or carries away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he may be made a slave or held in involuntary servitude, shall be fined not more than \$5,000, or imprisoned not more than five years, or both."

PART B—PROTECTION OF RIGHT TO POLITICAL PARTICIPATION

INTIMIDATION OF VOTERS

SEC. 211. Title 18, United States Code, section 594, is amended to read as follows:

"§ 594. INTIMIDATION OF VOTERS

"Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than \$1,000 or imprisoned not more than five years, or both."

PROTECTION OF RIGHT TO VOTE

SEC. 212. Section 2004 of the Revised Statutes of the United States (42 U.S.C., sec. 1971) is amended by adding at the end thereof the following new subsection:

"(f) The right to qualify to vote and to vote, as set forth in subsection (a) of this section, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes of the United States (42 U.S.C., sec. 1983), and other applicable provisions of law."

ACTIONS FOR DAMAGES

SEC. 213. In addition to the criminal penalties provided, any person or persons violating the provisions of title 18, United States Code, section 594 shall be subject to suit by the party injured, or by his estate, in any action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of title 18, United States Code, section 594, shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code, and the United States court of any Territory or other place subject to the jurisdiction of the United States.

PART C—PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION IN INTERSTATE TRANSPORTATION

RIGHT TO EQUAL ENJOYMENT OF PUBLIC CONVEYANCES OPERATED BY COMMON CARRIERS

SEC. 221. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed \$1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code, or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

UNLAWFUL ACTS

SEC. 222. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed \$1,000 for each offense, and shall also be subject to suit by the injured person in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code, or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

TITLE III—TO PROHIBIT DISCRIMINATION IN EMPLOYMENT BECAUSE OF RACE, RELIGION, COLOR, NATIONAL ORIGIN, OR ANCESTRY

SHORT TITLE

SEC. 301. This title may be cited as the "National Act Against Discrimination in Employment".

FINDINGS AND DECLARATION OF POLICY

SEC. 302. (a) The Congress hereby finds that the practice of discriminating in employment against properly qualified persons because of their race, religion, color, national origin, or ancestry is contrary to the American principles of liberty and of equality of opportunity, is incompatible with the Constitution, forces large segments of our population into substandard conditions of living, foment industrial strife and domestic unrest, deprives the United States of the fullest utilization of its capacities for production, endangers the national security and the general welfare, and adversely affects the domestic and foreign commerce of the United States.

(b) The right to employment without discrimination because of race, religion,

color, national origin, or ancestry is hereby recognized as and declared to be a civil right of all the people of the United States.

(c) It is hereby declared to be the policy of the United States to protect the right recognized and declared in subdivision (b) hereof and to eliminate all such discrimination to the fullest extent permitted by the Constitution. This title shall be construed to effectuate such policy.

DEFINITIONS

SEC. 303. As used in this title—

(a) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, or any organized group of persons and any agency or instrumentality of the United States or of any Territory or possession thereof.

(b) the term "employer" means a person engaged in commerce or in operations affecting commerce having in his employ fifty or more individuals; any agency or instrumentality of the United States or of any Territory or possession thereof; and any person acting in the interest of an employer, directly or indirectly.

(c) The term "labor organization" means any organization, having fifty or more members employed by any employer or employers which exists for the purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment, or for other mutual aid or protection in connection with employment.

(d) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States; or between any State, Territory, or the District of Columbia and any place outside thereof; or within the District of Columbia or any Territory; or between points in the same State but through any point outside thereof.

(e) The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce.

(f) The term "Commission" means the National Commission Against Discrimination in Employment, created by section 306.

EXEMPTIONS

SEC. 304. This Act shall not apply to any State or municipality or political subdivision thereof, or to any religious, charitable, fraternal, social, educational, or sectarian corporation or association not organized for private profit, other than labor organizations.

UNLAWFUL EMPLOYMENT PRACTICES DEFINED

SEC. 305. (a) It shall be an unlawful employment practice for an employer—

(1) to refuse to hire, to discharge, or otherwise to discriminate against any individual with respect to his terms, conditions, or privileges of employment, because of such individual's race, religion, color, national origin, or ancestry;

(2) to utilize in the hiring or recruitment of individuals for employment any employment agency, placement service, training school or center, labor organization, or any other source which discriminates against such individuals because of their race, religion, color, national origin, or ancestry.

(b) It shall be an unlawful employment practice for any labor organization to discriminate against any individual or to limit, segregate, or classify its membership in any way which would deprive or tend to deprive such individual of employment opportunities, or would limit his employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, or would affect adversely his wages, hours, or employment conditions, because of such individual's race, religion, color, national origin, or ancestry.

(c) It shall be an unlawful employment practice for any employer or labor organization to discharge, expel, or otherwise discriminate against any person, because he has opposed any unlawful employment practice or has filed a charge, testified, participated, or assisted in any proceeding under this title.

THE NATIONAL COMMISSION AGAINST DISCRIMINATION IN EMPLOYMENT

SEC. 306. (a) There is hereby created a commission to be known as the National Commission Against Discrimination in Employment (hereafter in this title referred to as the "Commission"), which shall be composed of seven mem-

bers who shall be appointed by the President by and with the advice and consent of the Senate. Of the original members of the Commission, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, one for a term of six years, and one for a term of seven years, but their successors shall be appointed for terms of seven years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission. Any member of the Commission may be removed by the President upon notice and hearing for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission, and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the cases it has heard; the decisions it has rendered; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(e) Each member of the Commission shall receive a salary of \$10,000 a year.

(f) The principal office of the Commission shall be in the District of Columbia, but it may meet or exercise any or all of its powers at any other place and may establish such regional offices as it deems necessary. The Commission may, by one or more of its members or by such agents as it may designate, conduct any investigation, proceeding, or hearing necessary to its functions in any part of the United States. Any such agent designated to conduct a proceeding or a hearing shall be a resident of the Federal judicial circuit, as defined in title 28, United States Code, section 41, within which the alleged unlawful employment practice occurs.

(g) The Commission shall have power—

(1) to appoint such agents and employees as it deems necessary to assist it in the performance of its functions;

(2) to cooperate with regional, State, local, and other agencies;

(3) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(4) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or any order issued thereunder;

(5) upon the request of any employer, whose employees or some of them refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or other remedial action;

(6) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to interested governmental and nongovernmental agencies; and

(7) to create such local, State, or regional advisory and conciliation councils as in its judgment will aid in effectuating the purpose of this title, and the Commission may empower them to study the problem or specific instances of discrimination in employment because of race, religion, color, national origin, or ancestry and to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population, and make recommendations to the Commission for the development of policies and procedures in general and in specific instances. Such advisory and conciliation councils shall be composed of representative citizen residents of the area for which they are appointed, serving without pay, but with reimbursement for actual and necessary traveling expenses; and the Commission may make provision for technical and clerical assistance to such councils and for the expenses of such assistance.

PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

SEC. 307. (a) Whenever a sworn written charge has been filed by or on behalf of any person claiming to be aggrieved, or a written charge has been filed

by a member of a Commission, that any person subject to the title has engaged in any unlawful employment practice, the Commission shall investigate such charge and if it shall determine after such preliminary investigation that probable cause exists for crediting such written charge, it shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during such endeavors may be used as evidence in any subsequent proceeding.

(b) If the Commission fails to effect the elimination of such unlawful employment practice and to obtain voluntary compliance with this title, or in advance thereof if circumstances so warrant, it shall cause a copy of such written charge to be served upon such person who has allegedly committed any unlawful employment practice, hereinafter called the respondent, together with a notice of hearing before the Commission, or a member thereof, or before a designated agent, at a place therein fixed, not less than ten days after the service of such charge.

(c) The member of the Commission who filed a charge shall not participate in a hearing thereon or in a trial thereof.

(d) At the conclusion of a hearing before a member or designated agent of the Commission the entire record thereof shall be transferred to the Commission, which shall designate three of its qualified members to sit as the Commission and to hear on such record the parties at a time and place to be specified upon reasonable notice.

(e) All testimony shall be taken under oath.

(f) The respondent shall have the right to file a verified answer to such written charge and to appear at such hearing in person or otherwise, with or without counsel, to present evidence and to examine and cross-examine witnesses.

(g) The Commission or the member or designated agent conducting such hearing shall have the power reasonably and fairly to amend any written charge, and the respondent shall have like power to amend its answer.

(h) Any written charge filed pursuant to this section must be filed within one year after the commission of the alleged unlawful employment practice.

(i) If upon the record, including all the testimony taken, the Commission shall find that any person named in the written charge has engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person an order requiring him to cease and desist from such unlawful employment practice and to take such affirmative action, including reinstatement or hiring of employees, with or without back pay, as will effectuate the policies of the title. If upon the record, including all the testimony taken, the Commission shall find that no person named in the written charge has engaged or is engaging in any unlawful employment practice, the Commission shall state its findings of fact and shall issue an order dismissing the said complaint.

(j) Until a transcript of the record in a case shall have been filed in a court, as hereinafter provided, the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

(k) The proceedings held pursuant to this section shall be conducted in conformity with the standards and limitations of sections 5, 6, 7, and 8 of the Administrative Procedure Act (5 U.S.C., sec. 1001 et seq.).

JUDICIAL REVIEW

Sec. 308. (a) The Commission shall have power to petition any circuit court of appeals of the United States (including the Court of Appeals of the District of Columbia) or, if the circuit court of appeals to which application might be made is in vacation, any district court of the United States (including the Supreme Court of the District of Columbia) within any circuit wherein the unlawful employment practice in question occurred, or wherein the respondent transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court to which petition is made a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and the order of the Commission. Upon such filing, the court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10(c) and 10(e) of the Administrative Procedure Act.

(b) Upon such filing, the court shall cause notice thereof to be served upon such respondent and thereupon shall have jurisdiction of the proceeding and of the question determined therein and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(c) No objection that has not been urged before the Commission, its member, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(d) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or agent, the court may order such additional evidence to be taken before the Commissioner, its member, or agent and to be made a part of the transcript.

(e) The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings and its recommendations, if any, for the modification or setting aside of its original order.

(f) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate circuit court of appeals, if application was made to the district court as hereinabove provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in title 28, United States Code, section 1254.

(g) Any person aggrieved by a final order of the Commission may obtain a review of such order in any circuit court of appeals of the United States in the circuit wherein the unlawful employment practice in question was alleged to have been engaged in or wherein such person transacts business, by filing in such court a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith served upon the Commission and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding certified by the Commission, including the pleadings and testimony upon which the order complained of was entered and the findings and order of the Commission. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Commission under subsection (a), and shall have the same exclusive jurisdiction to grant to the petitioner or the Commission such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(h) Upon such filing by a person aggrieved the reviewing court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by sections 10(a) and 10(b) of the Administrative Procedure Act.

(i) The commencement of proceedings under subsection (a) or (g) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

INVESTIGATORY POWERS

SEC. 309. (a) For the purpose of all investigations, proceedings, or hearings which the Commission deems necessary or proper for the exercise of the powers vested in it by this title, the Commission, or any member thereof, shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any investigation, proceeding, or hearing before the Commission, its member, or agent conducting such investigation, proceeding, or hearing.

(b) Any member of the Commission, or any agent designated by the Commission for such purposes, may administer oaths, examine witnesses, and receive evidence.

(c) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(d) In case of contumacy or refusal to obey a subpoena issued to any person under this title, any district court of the United States, or the United States

courts of any Territory or possession, or the Supreme Court of the District of Columbia, within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring him to appear before the Commission, its member, or agent, there to produce evidence if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing.

(e) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpoena of the Commission, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

ENFORCEMENT OF ORDERS DIRECTED TO GOVERNMENT AGENCIES

SEC. 310. The provisions of sections 308 shall not apply with respect to an order of the Commission under section 307 directed to any agency or instrumentality of the United States, or of any Territory or possession thereof, or any officer or employee thereof. The Commission may request the President to take such action as he deems appropriate to obtain compliance with such orders. The President shall have power to provide for the establishment of rules and regulations to prevent the committing or continuing of any unlawful employment practice as herein defined by any person who makes a contract with any agency or instrumentality of the United States (excluding any State or political subdivision thereof) or of any Territory or possession of the United States, which contract requires the employment of at least fifty individuals. Such rules and regulations shall be enforced by the Commission according to the procedure hereinbefore provided.

NOTICES TO BE POSTED

SEC. 311. (a) Every employer and labor organization shall post and keep posted in conspicuous places upon its premises a notice to be prepared or approved by the Commission setting forth excerpts of this title and such other relevant information which the Commission deems appropriate to effectuate the purposes of this title.

(b) A willful violation of this section shall be punishable by a fine of not less than \$100 or more than \$500 for each separate offense.

VETERANS' PREFERENCE

SEC. 312. Nothing contained in this title shall be construed to repeal or modify any Federal or State law creating special rights or preferences for veterans.

RULES AND REGULATIONS

SEC. 313. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable regulations to carry out the provisions of this title. If at any time after the issuance of any such regulation or any amendment or rescission thereof, there is passed a concurrent resolution of the Congress stating in substance that the Congress disapproves such regulation, amendment, or rescission, such disapproved regulation, amendment, or rescission shall not be effective after the date of the passage of such concurrent resolution nor shall any regulation or amendment having the same effect as that concerning which the concurrent resolution was passed be issued thereafter by the Commission.

(b) Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

SEC. 314. Whoever shall forcibly resist, oppose, impede, intimidate, or interfere with a member, agent, or employee of the Commission while engaged in the

performance of duties under this title, or because of such performance, shall be punished by a fine of not more than \$500 or by imprisonment for not more than one year, or by both.

TITLE IV—TO PROHIBIT DISCRIMINATION OR SEGREGATION IN THE ARMED FORCES

AMENDMENT TO TITLE 10, UNITED STATES CODE

SEC. 401. Chapter 49 of title 10 of the United States Code is amended by inserting immediately after the chapter heading the following:

“Sec.

“971. Prohibition against discrimination.

“§ 971. Prohibition against discrimination

“There shall be no discrimination against or segregation of any person in the Armed Forces, or the units thereof, or the Reserve components thereof, by reason of the race, religion, color, or national origin of such person.”

TITLE V—TO ELIMINATE SEGREGATION AND DISCRIMINATION IN OPPORTUNITIES FOR HIGHER AND OTHER EDUCATION

SHORT TITLE

SEC. 501. This title may be cited as the “Educational Opportunities Act of 1959”.

FINDINGS AND DECLARATION OF POLICY

SEC. 502. The Congress hereby finds and declares that the American idea of equality of opportunity requires that students otherwise qualified be admitted to educational institutions without regard to race, color, religion, or national origin, except that with regard to religious or denominational educational institutions, students otherwise qualified shall have the equal opportunity to attend therein without discrimination because of race, color, or national origin, it being recognized as a fundamental right for members of various religious faiths to establish and maintain educational institutions exclusively or primarily for students of their own religious faith or to advocate the religious principles in furtherance of which they are maintained and nothing herein contained shall impair or abridge that right.

DEFINITIONS

SEC. 503. As used in this title—

(a) The term “educational institution” means any educational institution of postsecondary grade subject to the visitation, examination, or inspection by the appropriate State agency supervising education within each State.

(b) The term “religious or denominational educational institution” means an educational institution which is operated, supervised, or controlled by a religious or denominational organization and which has certified to the appropriate State commissioner of education, or official performing similar duties, that it is a religious or denominational educational institution.

UNFAIR EDUCATIONAL PRACTICES

SEC. 504. (a) It shall be an unfair educational practice for an educational institution—

(1) to exclude, limit, or otherwise discriminate against any person or persons seeking admission as students to such institution because of race, religion, color, or national origin; except that nothing in this section shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its students exclusively or primarily from members of such religion or denomination, or from giving preference in such selection to such members, or to make such selection of its students as is calculated by such institution to promote the religious principles for which it is established or maintained; and

(2) to penalize any individual because he has initiated, testified, participated, or assisted in any proceedings under this title.

(b) It shall not be an unfair educational practice for any educational institution to use criteria other than race, religion, color, or national origin in the admission of students.

CERTIFICATION OF RELIGIOUS AND DENOMINATIONAL INSTITUTIONS

SEC. 505. An educational institution operated, supervised, or controlled by a religious or denominational organization may, through its chief executive officer, certify in writing to the Commissioner of Education (hereinafter referred to as the "Commissioner") that it is so operated, controlled, or supervised, and that it elects to be considered a religious or denominational educational institution, and it thereupon shall be deemed such an institution for the purposes of this section.

PROCEDURE

SEC. 506. (a) Any person seeking admission as a student, who claims to be aggrieved by an alleged unfair educational practice (hereinafter referred to as the "petitioner"), may himself, or by his parent, or guardian, make, sign, and file with the Commissioner a verified petition which shall set forth the particulars thereof and contain such other information as may be required by the Commissioner. The Commissioner shall thereupon cause an investigation to be made in connection therewith; and after such investigation if he shall determine that probable cause exists for crediting the allegations of the petition, he shall attempt by informal methods of persuasion, conciliation, or mediation to induce the elimination of such alleged unfair educational practice.

(b) Where the Commissioner has reason to believe that an applicant or applicants have been discriminated against, except that preferential selection by religious or denominational institutions of students of their own religion or denomination shall not be considered an act of discrimination, he may initiate an investigation on his own motion.

(c) The Commissioner shall not disclose what takes place during such informal efforts at persuasion, conciliation, or mediation, nor shall he offer in evidence in any proceeding the facts adduced in such informal efforts.

(d) A petition pursuant to this section must be filed with the Commissioner within one year after the alleged unfair educational practice was committed.

(e) If such information methods fail to induce the elimination of an alleged unfair educational practice, the Commissioner shall issue and cause to be served upon such institution, hereinafter called the respondent, a complaint setting forth the alleged unfair educational practice charged and a notice of hearing before the Commissioner, or his designated representative, at a place therein fixed to be held not less than twenty days after the service of said complaint. Any complaint issued pursuant to this section must be issued within two years after the alleged unfair educational practice was committed.

(f) The respondent shall have the right to answer the original and any amended complaint and to appear at such hearing by counsel, present evidence, and examine and cross-examine witnesses.

(g) (1) For the purpose of all investigations, proceedings, or hearings which the Commissioner deems necessary or proper for the exercise of the powers vested in him by this title, the Commissioner, or his designated representative, shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any investigation, proceeding, or hearing before the Commissioner, or his designated representative, conducting such investigation, proceeding, or hearing.

(2) The Commissioner, or the representative designated by the Commissioner for such purposes, may administer oaths, examine witnesses, and receive evidence.

(3) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States, including the District of Columbia, or any Territory or possession thereof, at any designated place of hearing.

(4) In case of contumacy or refusal to obey a subpoena issued to any person under this title any district court of the United States as constituted by chapter 5, title 28, United States Code, or the United States court of any Territory or other place subject to the jurisdiction of the United States, within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commissioner, shall have jurisdiction to issue to such person an order requiring him to appear

before the Commissioner, or his designated representative, there to produce evidence if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing.

(5) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpoena of the Commissioner on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

(h) After the hearing is completed the Commissioner shall file an intermediate report which shall contain his findings of fact and conclusions upon the issues in the proceeding. A copy of such report shall be served on the parties to the proceeding. Any such party within twenty days thereafter may file with the Commissioner exceptions to the findings of fact and conclusions, with a brief in support thereof, or may file a brief in support of such findings of fact and conclusions.

(i) If, upon all the evidence, the Commissioner shall determine that the respondent has engaged in an unfair educational practice, the Commissioner shall state his findings of fact and conclusions and shall issue and cause to be served upon such respondent a copy of such findings and conclusions and an order terminating, at the conclusion of the applicable school year, all programs of Federal aid of which such respondent is the beneficiary.

(j) If, upon all the evidence, the Commissioner shall find that a respondent has not engaged in any unfair educational practice, the Commissioner shall state his findings of fact and conclusions and shall issue and cause to be served on the petitioner and respondent a copy of such findings and conclusions, and an order dismissing the complaint as to such respondent.

JUDICIAL REVIEW

Sec. 507. (a) Any respondent aggrieved by a final order of the Commissioner may obtain a review of such order in any United States court of appeals of the judicial circuit wherein the unfair educational practice in question was alleged to have been engaged in or wherein such respondent is located, by filing in such court a written petition praying that the order of the Commissioner be modified or set aside. A copy of such petition shall be forthwith served upon the Commissioner and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding certified by the Commissioner, including the pleadings and testimony upon which the order complained of was entered and the findings and order of the Commissioner.

(b) Upon such filing, the court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10 of the Administrative Procedure Act; and shall have jurisdiction of the proceeding and of the questions determined therein and shall have the power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commissioner.

(c) No objection that has not been urged before the Commissioner, or his representative, shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(d) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commissioner, or his representative, the court may order such additional evidence to be taken before the Commissioner, or his representative, and to be made a part of the transcript.

(e) The Commissioner may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of its original order.

(f) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals, if application was made to the district court or other United States court as hereinabove provided, and by the Supreme Court of the United States as provided in title 28, United States Code, section 1254.

(g) The commencement of proceedings under subsection (a) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commissioner's order.

MISCELLANEOUS PROVISIONS

SEC. 508. This title shall take effect at the beginning of the semester or academic year, as the case may be, following its enactment for each educational institution to which it is applicable.

AMENDMENT TO PUBLIC LAW 874 (EIGHTY-FIRST CONGRESS)

SEC. 509. Section 8 of Public Law 874, Eighty-first Congress, approved September 30, 1950, as amended (20 U.S.C., sec. 243), is amended by adding at the end thereof the following new subsection:

"(e) In carrying out his functions under this Act, the Commissioner shall not make any payments or certify for any payments any local educational agency which discriminates among pupils or prospective pupils by reason of their race, religion, color, or national origin or segregates pupils or prospective pupils by virtue thereof."

AMENDMENT TO PUBLIC LAW 815 (EIGHTY-FIRST CONGRESS)

SEC. 510. Subsection (a) of section 11 of Public Law 815, Eighty-first Congress, approved September 23, 1950, as amended, is amended by striking out "(3)" and inserting in lieu thereof "(3)", and by inserting immediately after "carried out," the following: "or (4) that there is discrimination or segregation among pupils or prospective pupils by reason of race, religion, color, or national origin,"

TITLE VI—MAKING UNLAWFUL THE REQUIREMENT FOR THE PAYMENT OF A POLL TAX AS A PREREQUISITE TO VOTING IN A PRIMARY OR OTHER ELECTION FOR NATIONAL OFFICERS

SHORT TITLE

SEC. 601. This title may be cited as the "Federal Anti-Poll-Tax Act".

POLL TAX NOT QUALIFICATION FOR VOTING

SEC. 602. The requirement that a poll tax be paid as a prerequisite to voting or registering to vote at primaries or other elections for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives, is not and shall not be deemed a qualification of voters or electors voting or registering to vote at primaries or other elections for said officers, within the meaning of the Constitution, but is and shall be deemed an interference with the manner of holding primaries and other elections for said national officers and a tax upon the right or privilege of voting for said national officers and an impairment of the republican form of government.

POLL TAX VOID

SEC. 603. It shall be unlawful for any State, municipality, or other government or governmental subdivision to prevent any person from voting or registering to vote in any primary or other election for President, Vice President, electors for President, or Vice President, or for Senator or Member of the House of Representatives, on the ground that such person has not paid a poll tax, and any such requirement shall be invalid and void insofar as it purports to disqualify any person otherwise qualified to vote in such primary or other election. No State, municipality, or other government or governmental subdivision shall levy a poll tax in such primary or other election, and any such tax shall be invalid and void insofar as it purports to disqualify any person otherwise qualified from voting at such primary or other election.

UNLAWFUL FOR STATES TO REQUIRE POLL TAX AS PREREQUISITE FOR VOTING FOR PERSONS FOR NATIONAL OFFICES

SEC. 604. It shall be unlawful for any State, municipality, or other government or governmental subdivision to interfere with the manner of selecting persons for national office by requiring the payment of a poll tax as a prerequisite for voting or registering to vote in any primary or other election for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives, and any such requirement shall be invalid and void.

UNLAWFUL FOR ANY PERSON TO REQUIRE POLL TAX AS A PREREQUISITE FOR VOTING FOR PERSONS FOR NATIONAL OFFICES

SEC. 605. It shall be unlawful for any person, whether or not acting under the color of authority of the laws of any State, municipality, or other government or governmental subdivision, to require the payment of a poll tax as a prerequisite for voting or registering to vote in any primary or other election for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives.

POLL TAX

SEC. 606. For the purposes of this title, a poll tax shall be construed to include the levy or requirement of any charge, evidenced by any form of liability, upon the right to vote or register for voting.

TITLE VII—TO PROHIBIT SEGREGATION AND DISCRIMINATION IN HOUSING BECAUSE OF RACE, RELIGION, COLOR, OR NATIONAL ORIGIN

PROVISIONS

SEC. 701. Notwithstanding the provisions of any other law—

(1) no home mortgage shall be insured or guaranteed by the United States or any agency thereof, or by any United States Government corporation, unless the mortgagor certifies under oath that in selecting purchasers or tenants for any property covered by the mortgage he will not discriminate against any person or family by reason of race, color, religion, or national origin, and that he will not sell the property while the insurance is in effect unless the purchaser so certifies, such certification to be filed with the appropriate authority responsible for such insurance; and

(2) in the administration of the National Housing Act, as amended, the Federal Home Loan Bank Act, as amended, the United States Housing Act of 1937, as amended, the Housing Acts of 1949 and 1950, as amended, the Act entitled "An Act to expedite the provision of housing in connection with national defense, and for other purposes", approved October 14, 1940, as amended, and chapter 37 of title 38, United States Code, it shall be the policy of the United States that there shall be no discrimination affecting any tenant, owner, borrower, or recipient or beneficiary of a mortgage guarantee by reason of race, color, religion, or national origin, or segregation by virtue thereof, nor shall there be any discrimination or segregation by reason of race, color, religion, or national origin in the provision, operation, and maintenance of community facilities or housing under the provisions of the Defense Housing and Community Facilities and Services Act of 1951.

TITLE VIII—PROVISIONS TO STRENGTHEN THE FEDERAL GOVERNMENT MACHINERY FOR THE PROTECTION OF CIVIL RIGHTS

PART A—AMENDMENTS TO CIVIL RIGHTS ACT OF 1957

ADDITIONAL FUNCTIONS OF THE COMMISSION ON CIVIL RIGHTS

SEC. 801. Section 104 of the Civil Rights Act of 1957 is amended by striking out subsections (b) and (c) thereof and inserting in lieu thereof the following:

"(b) The Commission shall also gather timely and authoritative information concerning social and legal developments affecting the civil rights of individuals under the Constitution and laws of the United States; appraise the poli-

cies, practices, and enforcement program of the Federal Government with respect to civil rights; and appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights. The Commission shall make an annual report to the President on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil rights matter.

PERSONNEL FOR FEDERAL BUREAU OF INVESTIGATION

SEC. 802. (a) Part II of the Civil Rights Act of 1957 is amended by adding at the end thereof the following new section:

"SEC. 112. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil rights cases."

(b) The caption of part II of the Civil Rights Act of 1957 is amended to read as follows: "PART II—TO PROVIDE FOR AN ADDITIONAL ASSISTANT ATTORNEY GENERAL, AND FOR OTHER PURPOSES".

PART B—CREATION OF A JOINT CONGRESSIONAL COMMITTEE ON CIVIL RIGHTS

JOINT COMMITTEE ESTABLISHED

SEC. 821. There is established a Joint Committee on Civil Rights (hereinafter in this part referred to as the "joint committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. Not more than four members on the joint committee in the Senate and House of Representatives, respectively, shall belong to one political party.

FUNCTIONS OF THE JOINT COMMITTEE

SEC. 822. It shall be the function of the joint committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

VACANCIES; CHAIRMAN AND VICE CHAIRMAN

SEC. 823. Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original selection. The joint committee shall select a chairman and a vice chairman from among its members.

HEARINGS; STAFF

SEC. 824. The joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpoena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of section 102 to 104, inclusive, of the Revised Statutes of the United States, as amended (2 U.S.C., secs. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpoena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures, as, in its discretion, it deems necessary and advisable. The cost of stenographic service to report hearings of the joint committee, or any subcommittee thereof, shall not exceed 25 cents per hundred words.

FUNDS

SEC. 825. Funds appropriated to the joint committee shall be disbursed by the Clerk of the House of Representatives on vouchers signed by the chairman and vice chairman.

ADVISORY COMMITTEES

SEC. 826. The joint committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

[H.R. 352, 86th Cong., 1st sess.]

A BILL To authorize the Attorney General to institute for the United States a civil action for preventive relief whenever any acts have been committed which would give rise to a cause of action under section 1980 of the Revised Statutes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1980 of the Revised Statutes (42 U.S.C. 1985) is amended by adding at the end thereof the following new paragraphs:

"Fourth. Whenever any persons have engaged or there are reasonable grounds to believe that any persons are about to engage in any acts or practices which would give rise to a cause of action pursuant to paragraphs First, Second, or Third, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"Fifth. The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

[H.R. 353, 86th Cong., 1st sess.]

A BILL To declare certain rights of all persons within the jurisdiction of the United States, and for the protection of such persons from lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Antilynching Act."

FINDINGS AND POLICY

SEC. 2. The Congress hereby makes the following findings:

(a) Lynching is mob violence. It is violence which injures or kills its immediate victims. It is also violence which may be used to terrorize the racial, national, or religious groups of which its victims are members, thereby hindering all members of those groups in the free exercise of the rights guaranteed them by the Constitution and laws of the United States.

(b) The duty required of each State, by the Constitution and laws of the United States, to refrain from depriving any person of life, liberty, or property without due process of law and from denying to any person within its jurisdiction the equal protection of the laws, imposes on all States the obligations to exercise their power in a manner which will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When a State by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the State fails to fulfill one or both of the above obligations, and thus effectively deprives the victim of life, liberty, or property without due process of law, denies him the equal protection of the laws, and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States. By permitting or condoning lynch-

ing, the State makes the lynching its own act and gives the color of State law to the acts of those guilty of the lynching.

(c) The duty required of the United States by the Constitution and laws of the United States to refrain from depriving any person of life, liberty, or property without due process of law, imposes upon it the obligations to exercise its power in all areas within its exclusive criminal jurisdiction in a manner which will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When the United States by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the United States fails to fulfill one or both of the above obligations and thus effectively deprives the victim of life, liberty, or property without due process of law, and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States.

(d) Every lynching that occurs within the United States discredits this country among the nations of the world, and the resultant damage to the prestige of the United States has serious adverse effects upon good relations between the United States and other nations. The increasing importance of maintaining friendly relations among all nations renders it imperative that Congress permit no such acts within the United States which interfere with American foreign policy and weaken American leadership in the democratic cause.

(e) The United Nations Charter and the law of nations require that every person be secure against injury to himself or his property which is (1) inflicted by reason of his race, creed, color, national origin, ancestry, language, or religion, or (2) imposed in disregard of the orderly processes of law.

PURPOSES

SEC. 3. The Congress finds that the succeeding provisions of this Act are necessary in order to accomplish the following purposes:

(a) To insure the most complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(b) To safeguard the republican form of government of the several States from the lawless conduct of persons threatening to destroy the systems of public criminal justice therein and threatening to frustrate the functioning thereof through duly constituted officials.

(c) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, language, or religion, in accordance with the treaty obligations assumed by the United States under the United Nations Charter.

(d) To define and punish offenses against the law of nations.

RIGHT TO BE FREE OF LYNCHING

SEC. 4. It is hereby declared that the right to be free from lynching is a right of all persons, whether or not citizens of the United States, who are within the jurisdiction of the United States. As to all such persons, such right accrues by virtue of the provisions of the Constitution of the United States, the United Nations charter and the law of nations. As to citizens of the United States, such right additionally accrues by virtue of such citizenship. Such right is in addition to the same or any similar right or rights they may have as persons within the jurisdiction of, or as citizens of, the several States, the District of Columbia, the Territories, possessions, or other areas within the exclusive jurisdiction of the United States.

DEFINITIONS

SEC. 5. (a) Whenever two or more persons shall knowingly in concert (a) commit or attempt to commit violence upon any person or persons or on his or their property because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by violence against person or property, any power of correction or punishment over any person or persons in the custody of any governmental officer or employee or suspected of, charged with, or convicted of the commission of any criminal offense, with the

purpose or consequence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, such persons shall constitute a lynch mob within the meaning of this Act. Any such action, or attempt at such action, by a lynch mob shall constitute lynching within the meaning of this Act.

(b) The term "governmental officer or employee", as used in this Act, shall mean any officer or employee of a State or any governmental subdivision thereof, or any officer or employee of the United States, the District of Columbia, or any Territory, possession or other area within the exclusive jurisdiction of the United States.

PUNISHMENT FOR LYNCHING

SEC. 6. Any person, whether or not a governmental officer or employee, (a) who is a member of a lynch mob or (b) who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall, upon conviction, be fined not more than \$1,000, or imprisoned not more than one year, or both: *Provided, however*, That where such lynching results in death or maiming or other serious physical or mental injury, or in damage to property, constituting a felony under applicable State, District of Columbia, Territorial, or similar law, any such person shall, upon conviction, be fined not more than \$10,000, or imprisoned not more than twenty years, or both. A felony, for purposes of this section, shall be deemed an offense which, under applicable State, District of Columbia, Territorial, or similar law, is punishable by imprisonment for more than one year.

PUNISHMENT FOR KNOWING FAILURE TO PREVENT OR PUNISH LYNCHING

SEC. 7. Whenever a lynching shall occur, (a) any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or knowingly failed to make all diligent efforts to prevent the lynching, and (b) any governmental officer or employee who shall have had custody of a person or persons lynched and shall have neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, and (c) any governmental officer or employee who, in violation of his duty as such officer or employee, shall neglect, refuse, or knowingly fail to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets or commits a lynching by any means whatsoever, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding \$5,000 or by imprisonment not exceeding five years, or by both.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 8. The Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this Act, whenever information on oath is submitted to him that a lynching has occurred, and (a) that any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent such lynching, has neglected, refused, or knowingly failed to make all diligent efforts to prevent such lynching, or (b) that any governmental officer or employee who shall have had custody of a person or persons lynched and has neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, or (c) that any governmental officer or employee, in violation of his duty as such officer or employee, has neglected, refused, or knowingly failed to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever.

ANTI-KIDNAPING ACT

SEC. 9. The crime defined in and punishable under section 1201(a) of title 18 of the United States Code shall include knowingly transporting in interstate or foreign commerce, any person unlawfully abducted and held because of his race, color, national origin, ancestry, language, or religion, or for purposes of punishment, conviction, or intimidation.

CIVIL ACTIONS FOR DAMAGES

SEC. 10. (a) Any person, or in the event of his death the next of kin of any person, who as the result of a lynching suffers death, physical or mental injury, or property damage shall be entitled to maintain a civil action for damages for such death, injury, or damage against—

(1) any person who violates section 6, 7, or 9 of this Act in connection with such lynching;

(2) (A) the United States, or the District of Columbia, or any Territory, possession, or other governmental subdivision of the United States to which local police functions have been delegated and in which the lynching takes place; or

(B) the State or governmental subdivision thereof to which local police functions have been delegated and in which the lynching takes place.

In any action brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States, or against any State or governmental subdivision thereof, proof by a preponderance of evidence that any officers charged with preventing the lynching used all diligence and all powers vested in them for the protection of the property damaged, or of the person or persons killed or injured shall be an adequate affirmative defense. In any action brought pursuant to this section, the satisfaction of a judgment against any individual or governmental defendant shall bar further proceedings against any other individual or governmental defendant. Where recovery in any action brought pursuant to this section is based in whole or in part on death or on physical or mental injury, the judgment shall be not less than \$2,000.

(b) Where any action under this section is brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States the action shall be brought and prosecuted by the claimant or claimants and any judgment recovered shall include reasonable attorney's fees.

(c) Any judgment of the United States district court for the district in which any action under this section is instituted, or in which such action may have been transferred under the provisions of section 1404 of title 28 of the United States Code, may direct that such action be tried in any place in such district as he may designate.

(d) Any action brought pursuant to this section must be initiated within three years of the accrual of the cause of action.

SEVERABILITY CLAUSE

SEC. 11. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H.R. 400, 86th Cong., 1st sess.]

A BILL To provide further means of securing and protecting the right of persons within the jurisdiction of the several States to the equal protection of the laws and other civil rights guaranteed by the Constitution or laws of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the Attorney General shall receive a signed complaint that any person or persons has engaged in, or is about to engage in, any act or practice under color of law that would illegally deny or deprive any individual or group of individuals or association of his or its right to equal protection of the laws or to any other right guaranteed by the Constitution or the laws of the United States, or would interfere with, violate, or invade such rights, because of color, race, religion, or national origin or because he or it has opposed such denial or interference, the Attorney General shall promptly cause an investigation to be made of such complaint.

SEC. 2. If the Attorney General after the investigation described in the first sentence shall find that probable cause exists to credit any complaint filed pursuant to such section or any other similar denial or interference disclosed by

such investigation, he shall endeavor by informal methods to persuade the person or persons responsible for such denial to interference to cease and desist from such illegal acts.

SEC. 3. If the Attorney General shall determine that he is unable by the informal methods described in section 2 to eliminate the illegal denial or interference, he may institute for and in the name of the United States a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any such proceeding hereunder, the United States shall be liable for costs the same as a private person.

SEC. 4. The Attorney General shall not make public any admission or other statement by the person or persons complained of made in the course of the informal efforts described in section 2. He shall not disclose the name of the person signing the complaint described in the first section unless he deems such disclosure necessary for the proper performance of his duties.

SEC. 5. The Attorney General is hereby authorized, upon written request of the duly constituted authorities of any State or Territory, or subdivision, agency, or instrumentality thereof, to institute the legal proceeding described in section 3 whenever such authorities allege that any persons or persons are preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder, such authorities from giving or securing to any individual or group of individuals or association his or its right to equal protection of the laws or to any other right guaranteed by the Constitution or the laws of the United States because of color, race, religion, or national origin, or because he or it has opposed any denial of or interference with such rights. The Attorney General is further authorized to institute for and in the name of the United States a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder, the execution of any court order protecting any right guaranteed by the Constitution or the laws of the United States from denial or interference by reason of color, race, religion, or national origin.

SEC. 6. Whenever a suit is brought in the district courts of the United States seeking relief from a denial of or interference with the right to equal protection of the laws or of any other right guaranteed by the Constitution or the laws of the United States because of color, race, religion, or national origin, or because of opposition to such denial or interference, the Attorney General is authorized to intervene in such action with all the rights of a party thereto and to seek compliance with any lawful order issued by such court.

SEC. 7. The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this Act and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 8. Any person cited for an alleged contempt under this Act shall be allowed to make his full defense by counsel learned in the law; and the court before which he is cited or tried, or some judge thereof, shall immediately, upon his request, assign to him such counsel, not exceeding two, as he may desire, who shall have free access to him at all reasonable hours. He shall be allowed in his defense to make any proof that he can produce by lawful witnesses and shall have the like process of the court to compel his witnesses to appear at his trial or hearing, as is usually granted to compel witnesses to appear on behalf of the prosecution. If such person shall be found by the court to be financially unable to provide for such counsel, it shall be the duty of the court to provide such counsel.

SEC. 9. (a) In all cases of criminal contempt arising under the provisions of this Act, the accused, upon conviction, shall be punished by fine or imprisonment or both: *Provided, however*, That in case the accused is a natural person the fine to be paid shall not exceed the sum of \$1,000, nor shall imprisonment exceed the term of six months: *Provided further*, That in any such proceeding for criminal contempt, at the discretion of the judge, the accused may be tried with or without a jury: *Provided further, however*, That in the event such proceedings for criminal contempt be tried before a judge without a jury and the sentence of the court upon conviction is a fine in excess of the sum of \$300 or imprisonment in excess of forty-five days, the accused in said proceeding, upon demand therefor, shall be entitled to a trial de novo before a jury, which shall conform as near as may be to the practice in other criminal cases.

(b) This section shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders, or process of the court.

(c) Nor shall anything herein or in any other provision of law be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity including the power of detention.

SEC. 10. Nothing in this Act shall be construed as impairing any right guaranteed by the Constitution or laws of the United States or any remedies already existing for their protection or enforcement nor shall anything herein prevent any person or association from seeking to vindicate any constitutional or statutory right by any lawful means.

SEC. 11. If any provision of this Act or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

SEC. 12. This Act may be cited as the "Civil Rights Act of 1959".

[H.R. 430, 86th Cong., 1st sess.]

A BILL To effectuate and enforce the constitutional right to the equal protection of the laws, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SHORT TITLE AND FINDINGS

SEC. 101. This Act may be cited as the "Civil Rights Act of 1959".

SEC. 102. (a) The Congress hereby finds that—

(1) recent decisions of the Supreme Court of the United States holding racial segregation unlawful in public education, public transportation, and public recreational facilities (hereinafter referred to as the antisegregation decisions) as a denial of the constitutional right to the equal protection of the laws express the moral ideals of the Nation and the world and point the way to a nation enhanced in strength and dignity at home and enhanced in honor and prestige throughout the world,

(2) these antisegregation decisions are being resisted in many areas of the Nation most directly affected by them and indirectly evaded in other areas, thereby denying to millions of Americans within our borders the constitutional right to the equal protection of the laws,

(3) many States, municipalities, school districts, and other local governmental units have failed to make a prompt and reasonable start toward full compliance with the Supreme Court's decisions in the field of public education despite the substantial time which has already elapsed since the promulgation of those decisions in 1954 and 1955,

(4) the constitutional right to the equal protection of the laws is being denied to many persons because of race, color, religion, or national origin in fields other than education, transportation, and recreation,

(5) these denials of the constitutional right to the equal protection of the laws restrict millions of Americans to second-class citizenship and deprive the Nation of the maximum development and maximum benefits that can be contributed by such persons, and

(6) legislative and executive action (A) is necessary to safeguard and guarantee to all Americans the constitutional right to equal protection of the laws and (B) will aid in expediting universal compliance with the anti-segregation decisions of the Supreme Court.

(b) The Congress further finds that the rights protected by the Constitution, as declared by the antisegregation decisions, will be more widely accepted and more fully enjoyed in all areas of the Nation, and particularly in those areas of the Nation most directly affected by the decisions, when it is generally recognized and understood that—

(1) the Constitution, as declared by the antisegregation decisions, is the supreme law of the land,

(2) all Federal and State officials are bound by their oaths or affirmations to support the Constitution, and

(3) the legislative and executive branches of the Federal Government are acting and will continue to act, with such Federal authority as is found necessary, to protect the constitutional rights upheld by those decisions of the judicial branch of the Government.

(c) The Congress further finds that—

(1) the present system whereby individual plaintiffs in the Federal courts bear the burden of protecting constitutional rights, as declared by the anti-segregation decisions, is neither the exclusive nor the most effective means of protecting those constitutional rights and the public interest in safeguarding those constitutional rights, and has resulted in local restrictive and punitive measures against the individuals and organizations engaging in, and supporting, efforts in the courts to assert those constitutional rights, and

(2) specific authorization to the executive branch of the Federal Government to act in support of the constitutional rights upheld by the anti-segregation decisions (A) will provide a more rational, uniform, just, and effective system of protecting constitutional rights than the present procedure under which the safeguarding of constitutional rights is determined by the varying resources and courage of individuals and organizations and by the varying State statutory restrictions placed upon them, and (B) will render less effective, and hence tend to reduce, hostile community pressures upon individuals and organizations seeking to safeguard constitutional rights.

(d) The Congress hereby recognizes it to be the initial responsibility of all States, municipalities, school districts, and other local governmental units to safeguard the constitutional right to the equal protection of the laws as declared by the anti-segregation decisions of the Supreme Court and to administer their systems of public education, public transportation, and public recreational facilities in accordance with the Constitution of the United States, but the Federal Government, to maintain a more perfect union, to extend justice, to promote the common defense, and to secure the blessings of liberty to all persons, has a coordinate responsibility to guarantee the constitutional right to the equal protection of the laws, to prevent denials of the right when State or local authorities cannot or will not do so, and thus to enhance the Nation's internal strength and its position throughout the world.

(e) Recognizing its authority and responsibility under the fifth section of the fourteenth amendment to the Constitution of the United States and its obligation to uphold the coordinate authority and responsibility of the judicial branch of the Government, the Congress hereby declares its intention that the right to the equal protection of the laws guaranteed by the Constitution against deprivation by reason of race, color, religion, or national origin and affirmed by the anti-segregation decisions of the Supreme Court, shall be protected by all due and reasonable means, and to that end enacts the following provisions of this Act.

TITLE II

TECHNICAL ASSISTANCE BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE

SEC. 201. The Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the "Secretary") is hereby authorized to render technical assistance to States, municipalities, school districts, and other local governmental units to eliminate denials of constitutional rights in the field of public education by reason of race, color, religion, or national origin and to come into compliance with the decisions of the Supreme Court in the field of public education by—

(a) assembling, publishing, and distributing information which, in his judgment, will prove helpful in obtaining public understanding of, and compliance with, the Constitution and decisions of the Supreme Court in the field of public education;

(b) surveying the progress made in eliminating segregation in public education in various parts of the country and making available to public agencies, private organizations, private individuals, and the general public the results of such surveys, including wherever possible successful case histories of desegregation and the ways and means utilized to bring about desegregation in such instances;

(c) planning, calling, and holding local, State, regional, and national conferences attended by State and local officials, representatives of private organizations, and private citizens, to discuss ways and means of eliminating segregation in public education generally or in any particular State, municipality, school district, or other local governmental unit;

(d) appointing local, State, regional, and national advisory councils to assist the Secretary in carrying out his duties under this Act and to offer their assistance to any State, municipality, school district, or other local governmental unit to come into compliance with the Constitution and the decisions of the Supreme Court in the field of public education;

(e) reporting to the Congress, at least semiannually, concerning the progress being made in eliminating segregation in public education in various parts of the country; and

(f) assisting, by such other related means as he deems appropriate, States municipalities, school districts, and other local governmental units to eliminate segregation in public education.

SEC. 202. The Secretary shall recruit, employ, and train specialists in preparing, putting into effect, and carrying out plans for eliminating segregation in public education and shall offer the services of the specialists to States, municipalities, school districts, and other local governmental units. Upon request of any State, municipality, school district, or other local governmental unit, the Secretary shall make available to the requesting governmental unit the services of one or more specialists for such periods of time and in such numbers as the Secretary deems necessary and appropriate in the light of the particular needs of the requesting governmental unit.

SEC. 203. (a) The Secretary is authorized to reimburse any State or local official, representative of a private organization, or private citizen who is invited by him to attend any local, State, regional, or national conference held under the authority of section 201(c), and any member of an advisory council appointed under the authority of section 201(d) who is carrying out authorized functions, for travel expenses incurred, and to pay to any such person per diem in lieu of subsistence, in the same amounts as authorized by law (5 U.S.C. 73b-2) for persons in the Government service serving without compensation.

(b) The Secretary is authorized to reimburse any State or local official who, with the approval of the Secretary, is invited to confer with one or more specialists employed by the Secretary under section 202 for travel expenses incurred in attending such conference, and to pay to any such official per diem in lieu of subsistence, in the same amounts as authorized by law (5 U.S.C. 73b-2) for persons in the Government service serving without compensation.

SEC. 204. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1959, and for each of the four succeeding fiscal years, such amounts not to exceed \$2,500,000 in any fiscal year as may be necessary for carrying out the purposes of this title.

TITLE III

GRANTS TO AREAS WHERE DESEGREGATION IN PUBLIC EDUCATION IS BEING CARRIED OUT

SEC. 301. (a) The Secretary is authorized to make grants to States, municipalities, school districts, and other local governmental units which maintained racial segregation in their public schools on May 17, 1954, and which make application for such grants, to assist in meeting the costs of additional educational measures undertaken or to be undertaken to further the process of eliminating segregation in the public schools of the applicant State, municipality, school district, or local governmental unit, while at the same time assuring that existing educational standards will not be lowered.

(b) Grants may be made under this section for—

(1) the cost of employing additional schoolteachers,

(2) the cost of giving to teachers and other school personnel in-service training in dealing with problems incident to desegregation,

(3) the cost of employing specialists in problems incident to desegregation and of providing other assistance to develop understanding by parents, schoolchildren, and the general public of plans and efforts for eliminating segregation in the schools in order to reduce the possibility of community hostility or unlawful resistance to such plans and efforts, and

(4) other costs directly related to the process of eliminating segregation in public schools, including the replacement of State payments to a school

district or other political subdivision withdrawn because the applicant district or subdivision is eliminating, or is starting to eliminate, segregation.

(c) Grants may also be made under this section for the construction, enlargement, or alteration of school facilities when the Secretary finds that lack or inadequacy of existing facilities makes the carrying out of any reasonable plan for desegregation without lowering existing educational standards impracticable or materially more difficult.

(d) Each application made for a grant under this section shall provide such detailed breakdown of the additional educational measures for which financial assistance is sought as the Secretary may by regulations prescribe.

(e) Each grant under this section shall be made in such amounts and on such terms and conditions as the Secretary shall prescribe, which may include a condition that the applicant expend funds in specified amounts for the purpose for which the grant is made. In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Secretary shall take into consideration--

(1) the amount available for grants under this section and the other applications which are pending before him,

(2) the financial condition of the applicant and the other resources available to it,

(3) the nature, extent, and gravity of its problems incident to desegregation,

(4) whether the additional educational measures undertaken or to be undertaken are reasonably and effectively designed to further the process of eliminating racial segregation, while at the same time assuring that existing educational standards will not be lowered, and

(5) such other factors as he finds relevant.

SEC. 302. The Secretary is further authorized to make grants to public or other nonprofit educational institutions of higher learning to meet or assist in meeting the cost of short-term training courses or institutes, not to exceed four weeks in duration, for personnel of public schools or of educational agencies engaged in or about to undertake desegregation, designed to enable such personnel to deal more effectively with problems incident to desegregation. Such grants may also be used by such institutions to establish and maintain fellowships for such training courses or institutes, covering tuition, fees, and such stipends and allowances (including travel and subsistence expenses) as may be determined by the Secretary.

SEC. 303. Payments of grants under sections 301 and 302 may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary may determine.

SEC. 304. (a) There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1959, and for each of the four succeeding fiscal years, such sums, not exceeding \$40,000,000 for any fiscal year, as may be necessary to carry out the provisions of this title.

(b) In making grants from funds appropriated for any fiscal year for the purposes specified in section 301(b), the Secretary may disregard applications received after August 31 in that fiscal year, or may subordinate such applications to applications received before that date. In the event that he receives, either before or after that date, applications which he considered would materially contribute to carrying out the purposes of this title, but which he cannot grant because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

(c) In the event that the Secretary receives applications for grants for the purpose specified in section 301(c) which he considers would materially contribute to carrying out the purposes of this title, but which he cannot grant because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

TITLE IV

ADMINISTRATIVE ACTION DIRECTED TOWARD ELIMINATING SEGREGATION IN PUBLIC EDUCATION

SEC. 401. The Secretary shall make every effort to persuade States, municipalities, school districts, and other local governmental units to make a start toward eliminating segregation in public education and to carry out in full

such programs as they may start, and to this end he shall utilize the authority provided in titles II and III.

Sec. 402. Whenever the Secretary shall find that all efforts under titles II and III and under section 401 of this title have failed, and continue to fail, in bringing about a start toward the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit, the Secretary is authorized to prepare a tentative plan for the elimination of segregation in public education in such State, municipality, school district, or other local governmental unit. In preparing such a tentative plan, the Secretary shall seek the advice and assistance of public officials, private organizations, and private citizens in the area and of any local, State, regional, or national advisory council appointed pursuant to section 201(d); and he shall carefully consider such advice and assistance wherever available. Tentative plans prepared by the Secretary under the authority of this section shall take into account the need of the particular area for time to make an orderly adjustment and transition from segregated to desegregated schools.

Sec. 403. (a) Whenever the Secretary has prepared a tentative plan for the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit, he shall forward the plan to the governor, mayor, or other appropriate official, as the case may be. If the State, municipality, school district, or other local governmental unit agrees to put into effect the tentative plan as proposed by the Secretary or as modified by the State, municipality, school district, or other local governmental unit with the consent of the Secretary, the Secretary shall utilize the authority granted in titles II and III to assist the State, municipality, school district, or other local governmental unit in putting into effect the tentative plan.

(b) If the State, municipality, school district, or other local governmental unit (1) does not agree to put into effect the tentative plan as proposed by the Secretary or as modified with his consent, or (2) after agreeing to the tentative plan as so proposed or modified, does not, in the judgment of the Secretary, carry out such tentative plan, the Secretary shall hold a public hearing upon the tentative plan. Notice of such hearing shall be given to the local authorities concerned by registered mail and notice shall be given to private organizations and private citizens within the area by publication in one or more newspapers. Local authorities, private organizations, and private citizens shall be permitted to participate in the hearing and present evidence and argument in favor of the tentative plan, in favor of amendments to the tentative plan, or in opposition to the plan or to any plan, but cumulative evidence may be excluded in the discretion of the Secretary. Anyone shall be permitted to file a written statement with the Secretary in addition to, or in lieu of, personal appearance at the public hearing.

(c) After the hearing provided in subsection (b) has been concluded, the Secretary shall prepare and issue an approved plan for eliminating segregation in public education in the State, municipality, school district, or other local governmental unit. He shall publish the approved plan in the Federal Register and in one or more newspapers in the area affected thereby and shall transmit a certified copy thereof to the appropriate official of the State, municipality, school district, or other local governmental unit involved.

(d) In order that the proceedings under this title shall expedite the elimination of segregation in any State, municipality, school district, or other local governmental unit, the Secretary shall handle all proceedings under this title as expeditiously as possible. The Secretary shall complete any proceedings hereunder within one year from the time that a tentative plan is forwarded to the governor, mayor, or other appropriate official under section 403 (a), or in case a State, municipality, school district, or other local governmental unit agrees to a tentative plan but does not carry it out, within six months from the time that the Secretary determines that such State, municipality, school district, or other local governmental unit is not carrying out such tentative plan.

Sec. 404. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1959, and for each of the four succeeding fiscal years, such amounts as may be necessary for carrying out the purposes of this title.

Sec. 405. The Secretary is authorized to carry out his responsibilities and exercise his authority under this title and under titles II and III through designated personnel in his own office or through any existing bureau, division, or agency of the Department of Health, Education, and Welfare or through a office created by him for the special purpose of exercising the Secretary's responsibilities hereunder, except that the Secretary shall personally review and sign any approved plan issued under section 403 (c).

TITLE V

AUTHORIZATION TO THE ATTORNEY GENERAL IN THE FIELD OF PUBLIC EDUCATION

SEC. 501. (a) Whenever (1) the Secretary has published in the Federal Register an approved plan for the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit pursuant to section 403 (c), (2) the State, municipality, school district, or other local governmental unit has rejected the plan or has refused or failed to act in accordance therewith, and (3) the Secretary has certified to the Attorney General that all efforts to secure compliance with the Constitution and the Supreme Court's decisions by conciliation, persuasion, education, and assistance under titles II, III, and IV have failed, the Attorney General of the United States is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against the appropriate officials of the State, municipality, school district, or other local governmental unit, and any individual or individuals acting in concert with such officials to enforce compliance with the approved plan.

(b) The Attorney General is authorized to move to dismiss or discontinue any action brought under subsection (a), or to propose or to agree to a decree adopting a plan for elimination of segregation in public education which is different from the approved plan, whenever he determines that the State, municipality, school district, or other local governmental unit is making, or is prepared to make, a prompt and reasonable start toward full compliance with the Constitution and the Supreme Court's decisions in the field of education and to work toward full compliance with all deliberate speed.

(c) Any interested party may, with the leave of the court, intervene in any action brought under subsection (a), and the court shall consider any proposals by the intervenors, as well as by the defendant or defendants, in determining its final decree.

TITLE VI

OTHER AUTHORIZATIONS TO THE ATTORNEY GENERAL

SEC. 601. (a) Whenever the Attorney General receives a signed complaint that any person or group of persons is being deprived of, or is being threatened with the loss of, the right to the equal protection of the laws by reason of race, color, religion, or national origin and whenever the Attorney General certifies that, in his judgment, such person or group of persons is unable for any reason to seek effective legal protection for the right to the equal protection of the laws, the Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or subdivision or instrumentality thereof, deprives or threatens to deprive such person or group of persons of the right to equal protection of the laws by reason of race, color, religion, or national origin and against any individual or individuals acting in concert with them.

(b) A person or group of persons shall be deemed unable to seek effective legal protection for the right to the equal protection of the laws within the meaning of subsection (a) not only when such person or group of persons is financially unable to bear the expenses of the litigation, but also when there is reason to believe that the institution of such litigation would jeopardize the employment or other economic activity of, or might result in physical harm or economic damage to, such person or group of persons or their families.

(c) Nothing contained in titles IV and V shall limit the authority of the Attorney General to institute and maintain an action under subsection (a).

SEC. 602. The Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for injunction or other order, (1) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder, any Federal, State, or local official from according any person or group of persons the right to the equal protection of the laws without regard to race, color, religion, or national origin, or (2) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder the execution of any court order protecting the right to

the equal protection of the laws without regard to race, color, religion, or national origin.

SEC. 603. The Attorney General is authorized, upon receipt of a signed complaint, to institute for or in the name of the United States, a civil action or other proceeding for preventive relief, including an application for injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or territory or subdivision or instrumentality thereof, deprives or threatens to deprive any person or group of persons or association of persons of any right guaranteed by the fourteenth amendment of the Constitution because such person or group of persons or association of persons has opposed or opposes the denial of the equal protection of the laws to others because of race, color, religion, or national origin.

SEC. 604. Whenever a suit is brought in any district court of the United States seeking relief from the deprivation of the right of equal protection of the laws because of race, color, religion, or national origin, the Attorney General is authorized to intervene in such action with all the rights of a party thereto and to seek compliance with any lawful order issued by such district court.

TITLE VII

MISCELLANEOUS PROVISIONS

SEC. 701. The district courts of the United States shall have jurisdiction of proceedings instituted under sections 501, 601, 602, and 603 of this Act and shall exercise the same without regard to whether any administrative or other remedies that may be provided by law shall have been exhausted and, in the case of proceedings instituted under sections 601 and 602, without regard to whether any administrative proceeding is pending or contemplated under title IV, it being the purpose of title IV to expedite, not delay, the elimination of segregation in public education throughout the Nation. In any proceeding hereunder, the United States shall be liable for costs the same as a private person.

SEC. 702. Nothing in this Act or in any administrative proceeding hereunder shall be construed to impair any right guaranteed by the Constitution or laws of the United States or any remedies already existing for their protection or enforcement, nor to prevent any private individual or organization from acting to enforce or safeguard any constitutional right in any manner now permitted by law.

SEC. 703. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

[H.R. 461, 86th Cong., 1st sess.]

A BILL To effectuate and enforce the constitutional right to the equal protection of the laws, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SHORT TITLE AND FINDINGS

SEC. 101. This Act may be cited as the "Civil Rights Act of 1959".

SEC. 102. (a) The Congress hereby finds that—

(1) recent decisions of the Supreme Court of the United States holding racial segregation unlawful in public education, public transportation, and public recreational facilities (hereinafter referred to as the antisegregation decisions) as a denial of the constitutional right to the equal protection of the laws express the moral ideals of the Nation and the world and point the way to a nation enhanced in strength and dignity at home and enhanced in honor and prestige throughout the world,

(2) these antisegregation decisions are being resisted in many areas of the Nation most directly affected by them and indirectly evaded in other areas, thereby denying to millions of Americans within our borders the constitutional right to the equal protection of the laws,

(3) many States, municipalities, school districts, and other local governmental units have failed to make a prompt and reasonable start toward full compliance with the Supreme Court's decisions in the field of public education despite the substantial time which has already elapsed since the promulgation of those decisions in 1954 and 1955,

(4) the constitutional right to the equal protection of the laws is being denied to many persons because of race, color, religion, or national origin in fields other than education, transportation, and recreation,

(5) these denials of the constitutional right to the equal protection of the laws restrict millions of Americans to second-class citizenship and deprive the Nation of the maximum development and maximum benefits that can be contributed by such persons, and

(6) legislative and executive action (A) is necessary to safeguard and guarantee to all Americans the constitutional right to equal protection of the laws and (B) will aid in expediting universal compliance with the antisegregation decisions of the Supreme Court.

(b) The Congress further finds that the rights protected by the Constitution, as declared by the antisegregation decisions, will be more widely accepted and more fully enjoyed in all areas of the Nation, and particularly in those areas of the Nation most directly affected by the decisions, when it is generally recognized and understood that—

(1) the Constitution, as declared by the antisegregation decisions, is the supreme law of the land,

(2) all Federal and State officials are bound by their oaths or affirmations to support the Constitution, and

(3) the legislative and executive branches of the Federal Government are acting and will continue to act, with such Federal authority as is found necessary, to protect the constitutional rights upheld by those decisions of the judicial branch of the Government.

(c) The Congress further finds that—

(1) the present system whereby individual plaintiffs in the Federal courts bear the burden of protecting constitutional rights, as declared by the antisegregation decisions, is neither the exclusive nor the most effective means of protecting those constitutional rights and the public interest in safeguarding those constitutional rights, and has resulted in local restrictive and punitive measures against the individuals and organizations engaging in, and supporting, efforts in the courts to assert those constitutional rights, and

(2) specific authorization to the executive branch of the Federal Government to act in support of the constitutional rights upheld by the anti-segregation decisions (A) will provide a more rational, uniform, just, and effective system of protecting constitutional rights than the present procedure under which the safeguarding of constitutional rights is determined by the varying resources and courage of individuals and organizations and by the varying State statutory restrictions placed upon them, and (B) will render less effective, and hence tend to reduce, hostile community pressures upon individuals and organizations seeking to safeguard constitutional rights.

(d) The Congress hereby recognizes it to be the initial responsibility of all States, municipalities, school districts, and other local governmental units to safeguard the constitutional right to the equal protection of the laws as declared by the antisegregation decisions of the Supreme Court and to administer their systems of public education, public transportation, and public recreational facilities in accordance with the Constitution of the United States, but the Federal Government, to maintain a more perfect union, to extend justice, to promote the common defense, and to secure the blessings of liberty to all persons, has a coordinate responsibility to guarantee the constitutional right to the equal protection of the laws, to prevent denials of the right when State or local authorities cannot or will not do so, and thus to enhance the Nation's internal strength and its position throughout the world.

(e) Recognizing its authority and responsibility under the fifth section of the fourteenth amendment to the Constitution of the United States and its obligation to uphold the coordinate authority and responsibility of the judicial branch of the Government, the Congress hereby declares its intention that the right to the equal protection of the laws guaranteed by the Constitution against deprivation by reason of race, color, religion, or national origin and affirmed by the antisegregation decisions of the Supreme Court, shall be protected by all

due and reasonable means, and to that end enacts the following provisions of this Act.

TITLE II

TECHNICAL ASSISTANCE BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Sec. 201. The Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the "Secretary") is hereby authorized to render technical assistance to States, municipalities, school districts, and other local governmental units to eliminate denials of constitutional rights in the field of public education by reason of race, color, religion, or national origin and to come into compliance with the decisions of the Supreme Court in the field of public education by—

(a) assembling, publishing, and distributing information which, in his judgment, will prove helpful in obtaining public understanding of, and compliance with, the Constitution and decisions of the Supreme Court in the field of public education;

(b) Surveying the progress made in eliminating segregation in public education in various parts of the country and making available to public agencies, private organizations, private individuals, and the general public the results of such surveys, including wherever possible successful case histories of desegregation and the ways and means utilized to bring about desegregation in such instances;

(c) planning, calling, and holding local, State, regional, and national conferences attended by State and local officials, representatives of private organizations, and private citizens, to discuss ways and means of eliminating segregation in public education generally or in any particular State, municipality, school district, or other local governmental unit;

(d) appointing local, State, regional, and national advisory councils to assist the Secretary in carrying out his duties under this Act and to offer their assistance to any State, municipality, school district, or other local governmental unit to come into compliance with the Constitution and the decisions of the Supreme Court in the field of public education;

(e) reporting to the Congress, at least semiannually, concerning the progress being made in eliminating segregation in public education in various parts of the country; and

(f) assisting, by such other related means as he deems appropriate, States, municipalities, school districts, and other local governmental units to eliminate segregation in public education.

Sec. 202. The Secretary shall recruit, employ, and train specialists in preparing, putting into effect, and carrying out plans for eliminating segregation in public education and shall offer the services of the specialists to States, municipalities, school districts, and other local governmental units. Upon request of any State, municipality, school district, or other local governmental unit, the Secretary shall make available to the requesting governmental unit the services of one or more specialists for such periods of time and in such numbers as the Secretary deems necessary and appropriate in the light of the particular needs of the requesting governmental unit.

Sec. 203. (a) The Secretary is authorized to reimburse any State or local official, representative of a private organization, or private citizen who is invited by him to attend any local, State, regional, or national conference held under the authority of section 201(c), and any member of an advisory council appointed under the authority of section 201(d) who is carrying out authorized functions, for travel expenses incurred, and to pay to any such person per diem in lieu of subsistence, in the same amounts as authorized by law (5 U.S.C. 73b-2) for persons in the Government service serving without compensation.

(b) The Secretary is authorized to reimburse any State or local official who, with the approval of the Secretary, is invited to confer with one of more specialists employed by the Secretary under section 202 for travel expenses incurred in attending such conference, and to pay to any such official per diem in lieu of subsistence, in the same amounts as authorized by law (5 U.S.C. 73b-2) for persons in the Government service serving without compensation.

Sec. 204. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1958, and for each of the four succeeding fiscal years, such amounts not to exceed \$2,500,000 in any fiscal year as may be necessary for carrying out the purposes of this title.

TITLE III

GRANTS TO AREAS WHERE DESEGREGATION IN PUBLIC EDUCATION IS BEING CARRIED OUT

SEC. 301. (a) The Secretary is authorized to make grants to States, municipalities, school districts, and other local governmental units which maintained racial segregation in their public schools on May 17, 1954, and which make application for such grants, to assist in meeting the costs of additional educational measures undertaken or to be undertaken to further the process of eliminating segregation in the public schools of the applicant State, municipality, school district, or local governmental unit, while at the same time assuring that existing educational standards will not be lowered.

(b) Grants may be made under this section for—

- (1) the cost of employing additional schoolteachers,
- (2) the cost of giving to teachers and other school personnel in-service training in dealing with problems incident to desegregation,
- (3) the cost of employing specialists in problems incident to desegregation and of providing other assistance to develop understanding by parents, schoolchildren, and the general public of plans and efforts for eliminating segregation in the schools in order to reduce the possibility of community hostility or unlawful resistance to such plans and efforts, and
- (4) other costs directly related to the process of eliminating segregation in public schools, including the replacement of State payments to a school district or other political subdivision withdrawn because the applicant district or subdivision is eliminating, or is starting to eliminate, segregation.

(c) Grants may also be made under this section for the construction, enlargement, or alteration of school facilities when the Secretary finds that lack or inadequacy of existing facilities makes the carrying out of any reasonable plan for desegregation without lowering existing educational standards impracticable or materially more difficult.

(d) Each application made for a grant under this section shall provide such detailed breakdown of the additional educational measures for which financial assistance is sought as the Secretary may by regulations prescribe.

(e) Each grant under this section shall be made in such amounts and on such terms and conditions as the Secretary shall prescribe, which may include a condition that the applicant expend funds in specified amounts for the purpose for which the grant is made. In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Secretary shall take into consideration—

- (1) the amount available for grants under this section and the other applications which are pending before him,
- (2) the financial condition of the applicant and the other resources available to it,
- (3) the nature, extent, and gravity of its problems incident to desegregation,
- (4) whether the additional educational measures undertaken or to be undertaken are reasonably and effectively designed to further the process of eliminating racial segregation, while at the same time assuring that existing educational standards will not be lowered, and
- (5) such other factors as he finds relevant.

SEC. 302. The Secretary is further authorized to make grants to public or other nonprofit educational institutions of higher learning to meet or assist in meeting the cost of short-term training courses or institutes, not to exceed four weeks in duration, for personnel of public schools or of educational agencies engaged in or about to undertake desegregation, designed to enable such personnel to deal more effectively with problems incident to desegregation. Such grants may also be used by such institutions to establish and maintain fellowships for such training courses or institutes, covering tuition, fees, and such stipends and allowances (including travel and subsistence expenses) as may be determined by the Secretary.

SEC. 303. Payments of grants under sections 301 and 302 may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary may determine.

SEC. 304. (a) There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1958, and for each of the four succeeding fiscal years, such sums, not exceeding \$40,000,000 for any fiscal year, as may be necessary to carry out the provisions of this title.

(b) In making grants from funds appropriated for any fiscal year for the purposes specified in section 301(b), the Secretary may disregard applications received after August 31 in that fiscal year, or may subordinate such applications to applications received before that date. In the event that he receives, either before or after that date, applications which he considers would materially contribute to carrying out the purposes of this title, but which he cannot grant because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

(c) In the event that the Secretary receives applications for grants for the purpose specified in section 301(c) which he considers would materially contribute to carrying out the purposes of this title, but which he cannot grant because of lack of inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

TITLE IV

ADMINISTRATIVE ACTION DIRECTED TOWARD ELIMINATING SEGREGATION IN PUBLIC EDUCATION

Sec. 401. The Secretary shall make every effort to persuade States, municipalities, school districts, and other local governmental units to make a start toward eliminating segregation in public education and to carry out in full such programs as they may start, and to this end he shall utilize the authority provided in titles II and III.

Sec. 402. Whenever the Secretary shall find that all efforts under titles II and III and under section 401 of this title have failed, and continue to fail, in bringing about a start toward the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit, the Secretary is authorized to prepare a tentative plan for the elimination of segregation in public education in such State, municipality, school district, or other local governmental unit. In preparing such a tentative plan, the Secretary shall seek the advice and assistance of public officials, private organizations, and private citizens in the area and of any local, State, regional, or national advisory council appointed pursuant to section 201(d) and he shall carefully consider such advice and assistance wherever available. Tentative plans prepared by the Secretary under the authority of this section shall take into account the need of the particular area for time to make an orderly adjustment and transition from segregated to desegregated schools.

Sec. 403. (a) Whenever the Secretary has prepared a tentative plan for the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit, he shall forward the plan to the governor, mayor, or other appropriate official, as the case may be. If the State, municipality, school district, or other local governmental unit agrees to put into effect the tentative plan as proposed by the Secretary or as modified by the State, municipality, school district, or other local governmental unit with the consent of the Secretary, the Secretary shall utilize the authority granted in titles II and III to assist the State, municipality, school district, or other local governmental unit in putting into effect the tentative plan.

(b) If the State, municipality, school district, or other local governmental unit (1) does not agree to put into effect the tentative plan as proposed by the Secretary or as modified with his consent, or (2) after agreeing to the tentative plan as so proposed or modified, does not, in the judgment of the Secretary, carry out such tentative plan, the Secretary shall hold a public hearing upon the tentative plan. Notice of such hearing shall be given to the local authorities concerned by registered mail and notice shall be given to private organizations and private citizens within the area by publication in one or more newspapers. Local authorities, private organizations, and private citizens shall be permitted to participate in the hearing and present evidence and argument in favor of the tentative plan, in favor of amendments to the tentative plan, or in opposition to the plan or to any plan, but cumulative evidence may be excluded in the discretion of the Secretary. Anyone shall be permitted to file a written statement with the Secretary in addition to, or in lieu of, personal appearance at the public hearing.

(c) After the hearing provided in subsection (b) has been concluded, the Secretary shall prepare and issue an approved plan for eliminating segregation

in public education in the State, municipality, school district, or other local governmental unit. He shall publish the approved plan in the Federal Register and in one or more newspapers in the area affected thereby and shall transmit a certified copy thereof to the appropriate official of the State, municipality, school district, or other local governmental unit involved.

(d) In order that the proceedings under this title shall expedite the elimination of segregation in any State, municipality, school district, or other local governmental unit, the Secretary shall handle all proceedings under this title as expeditiously as possible. The Secretary shall complete any proceedings hereunder within one year from the time that a tentative plan is forwarded to the governor, mayor, or other appropriate official under section 403(a), or, in case a State, municipality, school district, or other local governmental unit agrees to a tentative plan but does not carry it out, within six months from the time that the Secretary determines that such State, municipality, school district, or other local governmental unit is not carrying out such tentative plan.

SEC. 404. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1958, and for each of the four succeeding fiscal years, such amounts as may be necessary for carrying out the purposes of this title.

SEC. 405. The Secretary is authorized to carry out his responsibilities and exercise his authority under this title and under titles II and III through designated personnel in his own office or through any existing bureau, division, or agency of the Department of Health, Education, and Welfare or through a new office created by him for the special purpose of exercising the Secretary's responsibilities hereunder, except that the Secretary shall personally review and sign any approved plan issued under section 403(c).

TITLE V

AUTHORIZATION TO THE ATTORNEY GENERAL IN THE FIELD OF PUBLIC EDUCATION

SEC. 501. (a) Whenever (1) the Secretary has published in the Federal Register an approved plan for the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit pursuant to section 403(c), (2) the State, municipality, school district, or other local governmental unit has rejected the plan or has refused or failed to act in accordance therewith, and (3) the Secretary has certified to the Attorney General that all efforts to secure compliance with the Constitution and the Supreme Court's decisions by conciliation, persuasion, education, and assistance under titles II, III, and IV have failed, the Attorney General of the United States is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against the appropriate officials of the State, municipality, school district, or other local governmental unit and any individual or individuals acting in concert with such officials to enforce compliance with the approved plan.

(b) The Attorney General is authorized to move to dismiss or discontinue any action brought under subsection (a), or to propose or to agree to a decree adopting a plan for elimination of segregation in public education which is different from the approved plan, whenever he determines that the State, municipality, school district, or other local governmental unit is making, or is prepared to make, a prompt and reasonable start toward full compliance with the Constitution and the Supreme Court's decisions in the field of education and to work toward full compliance with all deliberate speed.

(c) Any interested party may, with the leave of the court, intervene in any action brought under subsection (a), and the court shall consider any proposals by the intervenors, as well as by the defendant or defendants, in determining its final decree.

TITLE VI

OTHER AUTHORIZATIONS TO THE ATTORNEY GENERAL

SEC. 601. (a) Whenever the Attorney General receives a signed complaint that any person or group of persons is being deprived of, or is being threatened with the loss of, the right to the equal protection of the laws by reason of race, color, religion, or national origin and whenever the Attorney General certifies that, in his judgment, such person or group of persons is unable for any reason to seek effective legal protection for the right to the equal protection of the laws,

the Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or territory or subdivision or instrumentality thereof, deprives or threatens to deprive such person or group of persons of the right to equal protection of the laws by reason of race, color, religion, or national origin and against any individual or individuals acting in concert with them.

(b) A person or group of persons shall be deemed unable to seek effective legal protection for the right to the equal protection of the laws within the meaning of subsection (a) not only when such person or group of persons is financially unable to bear the expenses of the litigation, but also when there is reason to believe that the institution of such litigation would jeopardize the employment or other economic activity of, or might result in physical harm or economic damage to, such person or group of persons or their families.

(c) Nothing contained in titles IV and V shall limit the authority of the Attorney General to institute and maintain an action under subsection (a).

SEC. 602. The Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for injunction or other order, (1) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder, any Federal, State, or local official from according any person or group of persons the right to the equal protection of the laws without regard to race, color, religion, or national origin, or (2) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder the execution of any court order protecting the right to the equal protection of the laws without regard to race, color, religion, or national origin.

SEC. 603. The Attorney General is authorized, upon receipt of a signed complaint, to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or subdivision or instrumentality thereof, deprives or threatens to deprive any person or group of persons or association of persons of any right guaranteed by the fourteenth amendment of the Constitution because such person or group of persons or association of persons has opposed or opposes the denial of the equal protection of the laws to others because of race, color, religion, or national origin.

SEC. 604. Whenever a suit is brought in any district court of the United States seeking relief from the deprivation of the right of equal protection of the laws because of race, color, religion, or national origin, the Attorney General is authorized to intervene in such action with all the rights of a party thereto and to seek compliance with any lawful order issued by such district court.

TITLE VII

MISCELLANEOUS PROVISIONS

SEC. 701. The district courts of the United States shall have jurisdiction of proceedings instituted under sections 501, 601, 602, and 603 of this Act and shall exercise the same without regard to whether any administrative or other remedies that may be provided by law shall have been exhausted and, in the case of proceedings instituted under sections 601 and 602, without regard to whether any administrative proceeding is pending or contemplated under title IV, it being the purpose of title IV to expedite not delay the elimination of segregation in public education throughout the Nation. In any proceeding hereunder, the United States shall be liable for costs the same as a private person.

SEC. 702. Nothing in this Act or in any administrative proceeding hereunder shall be construed to impair any right guaranteed by the Constitution or laws of the United States or any remedies already existing for their protection or enforcement, nor to prevent any private individual or organization from acting to enforce or safeguard any constitutional right in any manner now permitted by law.

SEC. 703. If any provisions of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

[H.R. 617, 86th Cong., 1st sess.]

A BILL To assure to all persons within the jurisdiction of the United States full and equal privileges with respect to public conveyances and places of public accommodation, resort, entertainment, amusement, assemblage, and institutions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who, under color of any State law, or otherwise, shall make any distinction, discrimination, segregation, or restriction on account of race, color, creed, or national origin, with respect to the admission of any individual to, or the accommodation or service of any individual in, any public conveyance on land or water or in the air, any place of public accommodation, resort, entertainment, or amusement, or any place of public assemblage, or institution, or who shall aid, incite, or cause the making of any such distinction, discrimination, segregation, or restriction, shall for each such offense be liable to a penalty of not less than \$500 or more than \$1,000 to be recovered by the person aggrieved thereby in a civil action; and shall also be guilty of a felony and, upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

SEC. 2. As used in this Act—

(1) The term "public accommodation, resort, entertainment, or amusement" includes hotels, restaurants, stores, or shops where foodstuffs, drinks, goods, or wares are sold or offered, advertised, or displayed for sale to the public; hospitals, clinics, theaters, motion-picture houses, concert halls, amusement parks, and public parks and public buildings under the jurisdiction of the Federal Government or any State or local government.

(2) The term "institutions" includes public schools, colleges, and all other institutions of learning, penal institutions, orphanages, and homes for the aged and infirm.

(3) The term "person" includes an individual, firm, copartnership, company, corporation, unincorporated association, joint-stock association, or any organized group of persons.

[H.R. 618, 86th Cong., 1st sess.]

A BILL To amend part III of the Civil Rights Act of 1957

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part III of the Civil Rights Act of 1957 (71 Stat. 637) is amended by adding at the end thereof the following new section:

"Sec. 123. (a) The Attorney General is authorized, upon written complaint or information on oath or affirmation of any person who is subject to or threatened with the loss of his right to equal protection of the laws by reason of race, color, religion, or national origin, and who is unable because of financial inability or other reason effectively to prosecute a Federal civil proceeding on his own behalf, to institute for or in the name of the United States, a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any person or persons acting under color of any statute, ordinance, regulation, custom, or usage of any State or Territory, or subdivision or instrumentality thereof, or who conspires with such person or persons, to deprive or threaten to deprive any person of his rights to equal protection of the laws by reason of his race, color, religion, or national origin.

"(b) The Attorney General is hereby authorized, upon written request of the duly constituted authorities of any State or Territory, or municipality, subdivision or instrumentality thereof, to institute for or in the name of the United States, a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any two or more persons who conspire through violence, threats or otherwise to prevent or hinder such duly constituted authorities from giving or securing to any person his right to equal protection of the laws.

"(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether any administrative or other remedies that may be provided by law shall have been exhausted. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"(d) Nothing in this section shall impair any right secured by the Constitution and laws of the United States or any remedies already existing for their protection and enforcement."

[H.R. 619, 86th Cong., 1st sess.]

A BILL To secure, protect, and strengthen the civil rights accruing to individuals under the Constitution and laws of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Human Rights Act of 1959".

TITLE I—ESTABLISHMENT OF COMMISSION ON CIVIL RIGHTS AS PERMANENT AGENCY

SEC. 101. Section 104 of the Civil Rights Act of 1957 is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) The Commission shall, not later than January 31 of each year, submit an annual report to the President and to the Congress setting forth its activities in carrying out the duties imposed by subsection (a), and its findings and recommendations with respect thereto, and shall, in addition, at such times as either the Commission or the President deems desirable, submit special reports to the President and to the Congress with respect to such activities, findings, and recommendations."

TITLE II—INVESTIGATION OF CIVIL RIGHTS CASES

SEC. 201. Part II of the Civil Rights Act of 1957 is amended by adding after section 111 a new section as follows:

"SEC. 112. The Attorney General shall increase the personnel of the Federal Bureau of Investigation of the Department of Justice to the extent necessary to provide for the effective discharge of the duties of such Bureau with respect to the investigation of civil rights cases under applicable Federal laws. The Director of the Federal Bureau of Investigation shall, with the approval of the Attorney General, include in the training of agents and other personnel of the Bureau appropriation training and instruction for the investigation of civil rights cases."

TITLE III—JOINT COMMITTEE ON CIVIL RIGHTS

SEC. 301. There is established a Joint Committee on Civil Rights (hereinafter called the "joint committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the joint committee shall as nearly as may be feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

SEC. 302. It shall be the function of the joint committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 303. Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original selection. The joint committee shall select a chairman and a vice chairman from among its members.

SEC. 304. The joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpoena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U.S.C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpoena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable. The cost of stenographic services to report hearings of the joint committee, or any subcommittee thereof, shall not exceed 40 cents per hundred words.

SEC. 305. Funds appropriated to the joint committee shall be disbursed by the Secretary of the Senate on vouchers signed by the chairman and vice chairman.

SEC. 306. The joint committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

TITLE IV—CRIMINAL LAWS, PROTECTING CONSTITUTIONAL RIGHTS, PRIVILEGES, AND IMMUNITIES

SEC. 401. Title 18, United States Code, section 241, is amended to read as follows:

“§ 241. Conspiracy against rights of citizens

“(a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

“If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than \$5,000 or imprisoned not more than ten years, or both.

“(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

“If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than \$1,000 or imprisoned not more than one year, or both; or shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.”

SEC. 402. Title 18, United States Code, section 242, is amended to read as follows:

“§ 242. Deprivation of rights under color of law

“Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than \$1,000 or imprisoned not more than one year, or both; or shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.”

SEC. 403. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

“§ 242A. Enumeration of rights, privileges, and immunities

“The rights, privileges, and immunities referred to in section 242 shall be deemed to include, but shall not be limited to, the following:

“(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

“(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

“(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

“(4) The right to be free of illegal restraint of the person.

“(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

“(6) The right to vote as protected by Federal law.”

SEC. 404. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE V—CRIMINAL LAWS RELATING TO CONVICT LABOR, PEONAGE, SLAVERY, AND INVOLUNTARY SERVITUDE

SEC. 501. Subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

SEC. 502. Section 1583 of such title is amended to read as follows:

"§ 1583. Enticement into slavery

"Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

SEC. 503. Section 1584 of such title is amended to read as follows:

"§ 1584. Sale into involuntary servitude

"Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

TITLE VI—PROHIBITION AGAINST DISCRIMINATION IN INTERSTATE TRANSPORTATION

SEC. 601. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in furnishing transportation in interstate or foreign commerce, and of all facilities furnished or connected with such transportation, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in furnishing transportation of persons in interstate or foreign commerce or of any facility furnished or connected with such transportation, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed \$1,000 for each offense.

SEC. 602. It shall be unlawful for any common carrier engaged in furnishing transportation of persons in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance of such carrier on account of the race, color, religion, or national origin of such passengers. It shall be unlawful for any person operating any facility furnished or connected with transportation of persons in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against such passengers on account of the race, color, religion, or national origin of such passengers. Any such carrier, or officer, agent, or employee thereof, or any such person, or officer, agent, or employee thereof, who segregates or attempts to segregate such passengers or otherwise discriminates against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed \$1,000 for each offense.

SEC. 603. For the purposes of this title, the facilities furnished or connected with the transportation of persons in interstate or foreign commerce include, but are not limited to, waiting rooms, restrooms, restaurants, lunch counters, and similar facilities, and taxicabs and limousines, operated to service passen-

gers using the public conveyances of carriers engaged in furnishing transportation of persons in interstate or foreign commerce.

TITLE VII—FEDERAL EQUALITY OF OPPORTUNITY IN EMPLOYMENT ACT

SHORT TITLE

SEC. 701. This title may be cited as the "Federal Equality of Opportunity in Employment Act".

FINDINGS AND DECLARATION'S OF POLICY

SEC. 702. (a) The Congress hereby finds that, despite the continuing progress of our Nation, the practice of discrimination in employment against properly qualified persons because of their race, religion, color, national origin, or ancestry is contrary to the American principles of liberty and of equality of opportunity, is incompatible with the Constitution, forces large segments of our population into substandard conditions of living, foments industrial strife and domestic unrest, deprives the United States of the fullest utilization of its capacities for production, endangers the national security and the general welfare, and adversely affects the domestic and foreign commerce of the United States.

(b) The right to employment without discrimination because of race, religion, color, national origin, or ancestry is hereby recognized as and declared to be a civil right of all the people of the United States.

(c) The Congress further declares that the succeeding provisions of this title are necessary for the following purposes:

(1) To remove obstructions to the free flow of commerce among the States and with foreign nations.

(2) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States.

(3) To advance toward fulfillment of the international treaty obligations imposed by the Charter of the United Nations upon the United States as a signatory thereof to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion"

DEFINITIONS

SEC. 703. As used in this title—

(a) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, or any organized group of persons and any agency or instrumentality of the United States, including the District of Columbia, or of any Territory or possession thereof.

(b) The term "employer" means a person engaged in commerce or in operations affecting commerce having in his employ fifty or more individuals; any agency or instrumentality of the United States, including the District of Columbia, or of any Territory or possession thereof; and any person acting in the interest of an employer, directly or indirectly; but shall not include any State or municipality or political subdivision thereof, or any religious, charitable, fraternal, social, educational, or sectarian corporation or association, if no part of the net earnings inures to the benefit of any private shareholder or individual, other than a labor organization.

(c) The term "employment agency" means any person undertaking with or without compensation to procure employees or opportunities to work for an employer; but shall not include any State or municipality or political subdivision thereof, or any religious, charitable, fraternal, social, educational, or sectarian corporation or association, if no part of the net earnings inures to the benefit of any private shareholder or individual.

(d) The term "labor organization" means any organization, having fifty or more members employed by any employer or employers, which exist for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, terms or conditions of employment, or for other mutual aid or protection in connection with employment.

(e) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States; or between any State, Territory, possession, or the District of Columbia and any place outside thereof; or within the District of Columbia or any Territory or possession; or between points in the same State, the District of Columbia, or any Territory or possession but through any point outside thereof.

(f) The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce.

(g) The term "Commission" means the Equality of Opportunity in Employment Commission, created by section 706 hereof.

EXEMPTION

SEC. 704. This title shall not apply to any employer with respect to the employment of aliens outside the continental United States, its Territories and possessions.

UNLAWFUL EMPLOYMENT PRACTICES DEFINED

SEC. 705. (a) It shall be an unlawful employment practice for an employer—

(1) to refuse to hire, to discharge, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, religion, color, national origin, or ancestry;

(2) to utilize in the hiring or recruitment of individuals for employment any employment agency, placement service, training school or center, labor organization, or any other source which discriminates against such individuals because of their race, religion, color, national origin, or ancestry.

(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to properly classify or refer for employment, or otherwise to discriminate against any individual because of his race, color, religion, national origin, or ancestry.

(c) It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual or any employer because of the race, color, religion, national origin, or ancestry of any individual;

(2) to cause or attempt to force an employer to discriminate against an individual in violation of this section.

(d) It shall be an unlawful employment practice for any employer, employment agency, or labor organization to discharge, expel, or otherwise discriminate against any person, because he has opposed any unlawful employment practice or has filed a charge, testified, participated, or assisted in any proceeding under this title.

THE EQUALITY OF OPPORTUNITY IN EMPLOYMENT COMMISSION

SEC. 706. (a) There is hereby created a Commission to be known as the Equality of Opportunity in Employment Commission, which shall be composed of seven members who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, one for a term of six years, and one for a term of seven years, but their successors shall be appointed for terms of seven years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission. Any member of the Commission may be removed by the President upon notice and hearing for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noted.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the cases it has heard; the decisions it has rendered; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(e) Each member of the Commission shall receive a salary of \$15,000 a year.

(f) The principal office of the Commission shall be in the District of Columbia, but it may meet or exercise any or all of its powers at any other place and may establish such regional offices as it deems necessary. The Commission may, by one or more of its members or by such agents as it may designate, conduct any investigation, proceeding, or hearing necessary to its functions in any part of the United States. Any such agent, other than a member of the Commission, designated to conduct a proceeding or a hearing shall be a resident of the judicial circuit, as defined in title 28, United States Code, chapter 3, section 41, within which the alleged unlawful employment practice occurred.

(g) The Commission shall have power—

(1) to appoint, in accordance with the Civil Service Act, rules, and regulations, such officers, agents, and employees, as it deems necessary to assist it in the performance of its functions, and to fix their compensation in accordance with the Classification Act of 1949, as amended; attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court;

(2) to cooperate with and utilize regional, State, local, and other agencies;

(3) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or any order issued thereunder;

(4) upon the request of any employer, whose employees or some of the refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or other remedial action;

(5) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to interested governmental and nongovernmental agencies; and

(6) to create such local, State or regional advisory and conciliation councils as in its judgment will aid in effectuating the purpose of this title and the Commission may empower them to study the problem or specific instances of discrimination in employment because of race, religion, color, national origin, or ancestry and to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population, and make recommendations to the Commission for the development of policies and procedures in general and in specific instances. Such advisory and conciliation councils shall be composed of representative citizens resident of the area for which they are appointed, who shall serve without compensation, but shall receive transportation and per diem in lieu of subsistence as authorized by section 5 of the Act of August 2, 1946 (5 U.S.C. 73b-2), for persons serving without compensation; and the Commission may make provision for technical and clerical assistance to such councils and for the expenses of such assistance: the Commission may, to the extent it deems it necessary, provide by regulation for exemption of such persons from the operation of title 18 United States Code, sections 281, 283, 284, 434, and 1914, and section 190 of the Revised Statutes (5 U.S.C. 99): such regulation may be issued without prior notice and hearing.

PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

SEC. 707. (a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 705. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise: *Provided*, That an agreement between or among an employer or employers and a labor organization or labor organizations pertaining to discrimination in employment shall be enforceable in accordance with applicable law, but nothing contained therein shall be construed or permitted to foreclose the jurisdiction over any practice or occurrence granted the Commission by this title: *Provided further*, That the Commission is empowered by agreement with any agency of any State, Territory, possession or local government, to cede, upon such terms and conditions as may be agreed, to such agency jurisdiction over any cases or class of cases, if such agency, in the judgment of the Commission, has effective power to eliminate and prohibit discrimination in employment in such cases.

(b) Whenever a sworn written charge has been filed by or on behalf of any person claiming to be aggrieved, or a written charge has been filed by a member

of the Commission, that any person subject to the title has engaged in any unlawful employment practice, the Commission shall investigate such charge and if it shall determine after such preliminary investigation that probable cause exists for crediting such written charge, it shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion.

(c) If the Commission fails to effect the elimination of such unlawful practice and to obtain voluntary compliance with this title, or in advance thereof if circumstances warrant, the Commission shall have power to issue and cause to be served upon any person charged with the commission of an unlawful employment practice (hereinafter called the "respondent") a complaint stating the charges in that respect, together with a notice of hearing before the Commission, or a member thereof, or before a designated agent, at a place therein fixed, not less than ten days after the service of such complaint. No complaint shall issue based upon any unlawful employment practice occurring more than one year prior to the filing of the charge with the Commission and the service of a copy thereof upon the respondent, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces, in which event the period of military service shall not be included in computing the one-year period.

(d) The respondent shall have the right to file a verified answer to such complaint and to appear at such hearing in person or otherwise, with or without counsel, to present evidence and to examine and cross-examine witnesses.

(e) The Commission or the member or designated agent conducting such hearing shall have the power reasonably and fairly to amend any complaint, and the respondent shall have like power to amend its answer.

(f) All testimony shall be taken under oath.

(g) The member of the Commission who filed a charge shall not participate in a hearing thereon or in a trial thereof.

(h) At the conclusion of a hearing before a member or designated agent of the Commission, such member or agent shall transfer the entire record thereof to the Commission, together with his recommended decision and copies thereof shall be served upon the parties. The Commission, or a panel of three qualified members designated by it to sit and act as the Commission in such case, shall afford the parties an opportunity to be heard on such record at a time and place to be specified upon reasonable notice. In its discretion, the Commission upon notice may take further testimony.

(i) With the approval of the member or designated agent conducting the hearing, a case may be ended at any time prior to the transfer of the record thereof to the Commission by agreement between the parties for the elimination of the alleged unlawful employment practice on mutually satisfactory terms.

(j) If, upon the preponderance of the evidence, including all the testimony taken, the Commission shall find that the respondent engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person and other parties an order requiring such person to cease and desist from such unlawful employment practice and to take such affirmative action, including reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the discrimination), as will effectuate the policies of the Act: *Provided*, That interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. Such order may further require such respondent to make reports from time to time showing the extent to which it has complied with the order. If the Commission shall find that the respondent has not engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person and other parties an order dismissing the complaint.

(k) Until a transcript of the record in a case shall have been filed in a court, as hereinafter provided, the case may at any time be ended by agreement between the parties, approved by the Commission, for the elimination of the alleged unlawful employment practice on mutually satisfactory terms, and the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

(l) The proceedings held pursuant to this section shall be conducted in conformity with the standards and limitations of sections 5, 6, 7, 8, and 11 of the Administrative Procedure Act.

JUDICIAL REVIEW

SEC. 708. (a) The Commission shall have power to petition any United States Court of Appeals or, if the court of appeals to which application might be made is in vacation, any district court within any circuit or district, respectively, wherein the unlawful employment practice in question occurred, or wherein the respondent resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court to which petition is made a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and the order of the Commission. Upon such filing, the court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10 of the Administrative Procedure Act.

(b) Upon such filing the court shall cause notice thereof to be served upon such respondent and thereupon shall have jurisdiction of the proceeding and of the question determined therein and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(c) No objection that has not been urged before the Commission, its member, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(d) The findings of the Commission with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive.

(e) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or agent, the court may order such additional evidence to be taken before the Commission, its member, or agent and to be made a part of the transcript.

(f) The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order.

(g) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals, if application was made to the district court or other United States court as hereinabove provided, and by the Supreme Court of the United States as provided in title 28, United States Code, section 1254.

(h) Any person aggrieved by a final order of the Commission may obtain a review of such order in any United States court of appeals of the judicial circuit wherein the unlawful employment practice in question was alleged to have been engaged in or wherein such person resides or transacts business or the Court of Appeals for the District of Columbia, by filing in such court a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith served upon the Commission and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding certified by the Commission, including the pleadings and testimony upon which the order complained of was entered and the findings and order of the Commission. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Commission under subsections (a), (b), (c), (d), (e), and (f), and shall have the same exclusive jurisdiction to grant to the Commission such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(i) Upon such filing by a person aggrieved the reviewing court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10 of the Administrative Procedure Act.

(j) The commencement of proceedings under this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

(k) When granting appropriate temporary relief or a restraining order, or making and entering a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part an order of the Commission, as provided in this section, the jurisdiction of courts sitting in equity shall not be limited by the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932 (U. S. C., title 29, secs. 101-115).

(1) Petitions filed under this Act shall be heard expeditiously.

INVESTIGATORY POWERS

SEC. 709. (a) For the purpose of all investigations, proceedings, or hearings which the Commission deems necessary or proper for the exercise of the powers vested in it by this title, the Commission, or any member thereof, shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any investigation, proceeding, or hearing before the Commission, its member, or agent conducting such investigation, proceeding, or hearing.

(b) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States, including the District of Columbia or any Territory or possession thereof, at any designated place of hearing.

(c) In case of contumacy or refusal to obey a subpoena issued to any person under this title, any district court within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring him to appear before the Commission, its member, or agent, there to produce evidence if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing.

(d) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpoena of the Commission, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

(e) Any member of the Commission, or any agent designated by the Commission for such purposes, may administer oaths, examine witnesses, and receive evidence.

(f) Complaints, orders, and other process and papers of the Commission, its member, agent, or agency, may be served either personally or by registered mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the same setting forth the manner of such service shall be proof of the same, and the return post-office receipt or telegraph receipt therefor when registered and mailed or telegraphed as aforesaid shall be proof of service of the same. Witnesses summoned before the Commission, its member, agent, or agency, shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(g) All process of any court to which application may be made under this title may be served in the judicial district wherein the defendant or other person required to be served resides or may be found.

(h) The several departments and agencies of the Government, when directed by the President, shall furnish the Commission, upon its request, all records, papers, and information in their possession relating to any matter before the Commission.

ENFORCEMENT OF ORDERS DIRECTED TO GOVERNMENT AGENCIES AND CONTRACTORS

SEC. 710. (a) The President is authorized to take such action as may be necessary (1) to conform fair employment practices within the Federal establishment with the policies of this title, and (2) to provide that any Federal em-

ployee aggrieved by any employment practice of his employer must exhaust the administrative remedies prescribed by Executive order or regulations governing fair employment practices within the Federal establishment prior to seeking relief under the provisions of this title. The provision of section 708 shall not apply with respect to an order of the Commission under section 707 directed to any agency or instrumentality of the United States, or of any Territory or possession thereof, or of the District of Columbia, or any officer or employee thereof. The Commission may request the President to take such action as he deems appropriate to obtain compliance with such orders.

(b) The President shall have power to provide for the establishment of rules and regulations to prevent the committing or continuing of any unlawful employment practice as herein defined by any person who makes a contract with any agency or instrumentality of the United States (excluding any State or political subdivision thereof) or of any Territory or possession of the United States, which contract requires the employment of at least fifty individuals. Such rules and regulations shall be enforced by the Commission according to the procedure hereinbefore provided.

NOTICES TO BE POSTED

SEC. 711. (a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the Commission setting forth excerpts of this title and such other relevant information which the Commission deems appropriate to effectuate the purposes of this title.

(b) A willful violation of this section shall be punishable by a fine of not less than \$100 or more than \$500 for each separate offense.

VETERAN'S PREFERENCE

SEC. 712. Nothing contained in this title shall be construed to repeal or modify any Federal, State, Territorial, or local law creating special rights or preference for veterans.

RULES AND REGULATIONS

SEC. 713. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable regulations to carry out the provisions of this title. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

(b) If at any time after the issuance of any such regulation or any amendment or rescission thereof, there is passed a concurrent resolution of the two Houses of the Congress stating in substance that the Congress disapproves such regulation, amendment, or rescission, such disapproved regulation, amendment, or rescission shall not be effective after the date of the passage of such concurrent resolution.

FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

SEC. 714. The provisions of section 11, title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties.

SEPARABILITY CLAUSE

SEC. 715. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of this title or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

EFFECTIVE DATE

SEC. 716. This title shall become effective sixty days after enactment, except that subsections 707 (c) to (1), inclusive, and section 708 shall become effective six months after enactment.

TITLE VIII—FEDERAL ANTILYNCHING ACT

SHORT TITLE

SEC. 801. This title may be cited as the "Federal Antilynching Act".

PURPOSES

SEC. 802. The Congress finds that the succeeding provisions of this title are necessary in order to accomplish the following purposes:

(a) To insure the most complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(b) To safeguard the republican form of government of the several States from the lawless conduct of persons threatening to destroy the systems of public criminal justice therein and threatening the frustrate the functioning thereof through duly constituted officials.

RIGHT TO BE FREE OF LYNCHING

SEC. 803. It is hereby declared that the right to be free from lynching is a right of all persons, whether or not citizens of the United States, who are within the jurisdiction of the United States. As to all such persons, such right accrues by virtue of the provisions of the Constitution of the United States. As to citizens of the United States, such right additionally accrues by virtue of such citizenship. Such right is in addition to the same or any similar right or rights they may have as persons within the jurisdiction of, or as citizens of, the several States, the District of Columbia, the Territories, possessions, or other areas within the exclusive jurisdiction of the United States.

DEFINITIONS

SEC. 804. (a) Whenever two or more persons shall knowingly in concert (a) commit or attempt to commit violence upon any person or persons or on his or their property because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by violence against person or property, any power of correction or punishment over any person or persons in the custody of any governmental officer or employee or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, such persons shall constitute a lynch mob within the meaning of this title. Any such action, or attempt at such action, by a lynch mob shall constitute lynching within the meaning of this title.

(b) The term "governmental officer or employee", as used in this title, shall mean any officer or employee of a State or any governmental subdivision thereof, or any officer or employee of the United States, the District of Columbia, or any Territory, possession or other area within the exclusive jurisdiction of the United States.

PUNISHMENT FOR LYNCHING

SEC. 805. Any person, whether or not a governmental officer or employee, (a) who is a member of a lynch mob or (b) who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall, upon conviction, be fined not more than \$1,000, or imprisoned not more than one year, or both: *Provided, however,* That where such lynching results in death or maiming or other serious physical or mental injury, or in damage to property, constituting a felony under applicable State, District of Columbia, Territorial, or similar law, any such person shall, upon conviction, be fined not more than \$10,000, or imprisoned not more than twenty years, or both. A felony, for purposes of this section, shall be deemed an offense which, under applicable State, District of Columbia, Territorial, or similar law, is punishable by imprisonment for more than one year.

PUNISHMENT FOR KNOWING FAILURE TO PREVENT OR PUNISH LYNCHING

SEC. 806. Whenever a lynching shall occur, (a) any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or knowingly failed to make all diligent efforts to prevent the lynching, and (b) any governmental officer or employee who shall have had custody of a person or persons lynched and shall have neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, and (c) any governmental officer or employee who, in violation of his duty as such officer or employee, shall neglect, refuse, or knowingly fail

to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding \$5,000 or by imprisonment not exceeding five years, or by both.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 807. The Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this title, whenever information on oath is submitted to him that a lynching has occurred, and (a) that any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent such lynching, has neglected, refused, or knowingly failed to make all diligent efforts to prevent such lynching, or (b) that any governmental officer or employee who shall have had custody of a person or persons lynched and has neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, or (c) that any governmental officer or employee, in violation of his duty as such officer or employee, has neglected, refused, or knowingly failed to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever.

AMENDMENT TO ANTIKIDNAPING ACT

SEC. 808. The crime defined in and punishable under the Act of June 22, 1932, as amended (18 U.S.C. 1201, 1202) shall include knowingly transporting in interstate or foreign commerce, any person unlawfully abducted and held because of his race, color, religion, national origin, ancestry, language, or religion, or for purposes of punishment, conviction, or intimidation.

CIVIL ACTIONS FOR DAMAGES

SEC. 809. (a) Any person, or in the event of his death the next of kin of any person, who as the result of a lynching suffers death, physical or mental injury, or property damage shall be entitled to maintain a civil action for damages for such death, injury, or damage against—

(1) any person who violates section 806, 807, or 809 of this title in connection with such lynching;

(2) (A) the United States, or the District of Columbia, or any Territory, possession, or other governmental subdivision of the United States to which local police functions have been delegated and in which the lynching takes place; or

(B) the State or governmental subdivision thereof to which local police functions have been delegated and in which the lynching takes place.

In any action brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States, or against any State or governmental subdivision thereof, proof by a preponderance of evidence that any officers charged with preventing the lynching used all diligence and all powers vested in them for the protection of the property damaged, or of the person or persons killed or injured shall be an adequate affirmative defense. In any action brought pursuant to this section, the satisfaction of a judgment against any individual or governmental defendant shall bar further proceedings against any other individual or governmental defendant. Where recovery in any action brought pursuant to this section is based in whole or in part on death or on physical or mental injury, the judgment shall be not less than \$2,000.

(b) Where any action under this section is brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States, the action shall be brought and prosecuted by the claimant or claimants and any judgment recovered shall include reasonable attorney's fees.

(c) Any judge of the United States district court for the district in which any action under this section is instituted, or in which such action may have been transferred under the provisions of section 1404 of title 28 of the United States

Code, may direct that such action be tried in any place in such district as he may designate.

(d) Any action brought pursuant to this section must be initiated within three years of the accrual of the cause of action.

SEVERABILITY CLAUSE

SEC. 810. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE IX—FEDERAL 'ANTI-POLL-TAX ACT

SEC. 901. This title may be cited as the "Federal Anti-Poll-Tax Act".

SEC. 902. When used in this title—

(a) The term "poll tax" shall be construed to include specifically, but not by way of limitation, any tax, however designed, which is, or at any time was, imposed, increased, accelerated, or otherwise unfavorably modified, as a direct or indirect prerequisite to or consequence of voting in a national election.

(b) The term "voting in a national election" shall mean voting or registering to vote in any primary or other election for President, Vice President, or elector or indirect prerequisite to or consequence of voting in a national election. Member of the House of Representatives.

SEC. 903. It shall be unlawful for any person, whether or not acting on behalf of any State or any governmental subdivision thereof or therein, to levy, collect, or require the payment of any poll tax, or otherwise interfere with any person's voting in any national election by reason of such person's failure or refusal to pay or assume the obligation of payment of any poll tax. Any such action by any such person shall be deemed an interference with the manner of holding such elections, an abridgment of the right and privilege of citizens of the United States to vote for such officers, and an obstruction of the operations of the Federal Government.

SEC. 904. In any action brought under section 1102 for preventive, mandatory, or declaratory relief based upon an alleged violation or threatened violation of this title, any appeal to the appropriate court of appeals and review thereof by the Supreme Court shall be heard expeditiously and shall, where practicable, be determined before the next national election in connection with which such violation or threatened violation is alleged.

SEC. 905. If any provision of this title or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the title and the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE X—PROTECTION OF MEMBERS OF ARMED FORCES

SEC. 1001. Section 1114 of title 18 of the United States Code is amended by striking out "officer or enlisted man of the Coast Guard" and inserting in lieu thereof "member of the Army, Navy, Air Force, Marine Corp, or Coast Guard".

TITLE XI—CIVIL ACTIONS AND EQUITABLE RELIEF

SEC. 1101. Any person who deprives an inhabitant of any State of any right, privilege, or immunity secured or protected by the Constitution or the laws of the United States shall be liable to such inhabitant, or to his estate, for damages sustained thereby and for injuries, including death, suffered by such inhabitant in the course of, or as a result of, the commission of the acts which constitute such deprivation.

SEC. 1102. Upon a showing that an inhabitant of any States is being deprived or is threatened to be deprived of any right, privilege, or immunity secured or protected by the Constitution or the laws of the United States, such inhabitant, or the Attorney General of the United States, in the name of the United States but for the benefit of such inhabitant, may commence and maintain an action for preventive, mandatory, or declaratory relief to prohibit or prevent such deprivation or such threatened deprivation.

SEC. 1103. The rights, privileges, and immunities secured or protected by the Constitution or laws of the United States referred to in sections 1101 and 1102 include the rights, privileges, and immunities protected under title 18 of the

United States Code and all other criminal laws of the United States. In any action brought under section 1101 or 1102 based upon an alleged violation of any provision of title 18 or of any other criminal law of the United States, it shall not be necessary to the commencement or maintenance of such action that any person against whom such action is brought has been convicted of violating such provision.

SEC. 1104. The district courts of the United States shall have jurisdiction of proceedings brought pursuant to section 1101 and 1102 and shall exercise such jurisdiction without regard to whether the party aggrieved shall have exhausted any administrative or other remedies provided by law and without regard to the amount of the matter in controversy.

SEC. 1105. As used in this title—

(a) The term "district courts of the United States" means any district court as constituted by chapter 5 of title 28 of the United States Code and the United States court of any Territory or other place subject to the jurisdiction of the United States.

(b) The term "State" includes the Territories of the United States and the District of Columbia.

SEC. 1106. This title shall not apply to the rights, privileges, and immunities secured and protected by titles VII and VIII of this Act.

TITLE XII—SEPARABILITY

SEC. 1201. If any title of this Act or the application thereof to any person or circumstances is held invalid, the validity of the other titles of this Act and the application of such title to other persons and circumstances shall not be affected thereby.

[H.R. 759, 86th Cong., 1st sess.]

A BILL To provide further means of securing and protecting the right of persons within the jurisdiction of the several States to the equal protection of the laws and other civil rights guaranteed by the Constitution or laws of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the Attorney General shall receive a signed complaint that any person or persons has engaged in, or is about to engage in, any act or practice under color of law that would illegally deny or deprive any individual or group of individuals or association of his or its right to equal protection of the laws or to any other right guaranteed by the Constitution or the laws of the United States, or would interfere with, violate, or invade such rights, because of color, race, religion, or national origin or because he or it has opposed such denial or interference, the Attorney General shall promptly cause an investigation to be made of such complaint.

SEC. 2. If the Attorney General after the investigation described in the first sentence shall find that probable cause exists to credit any complaint filed pursuant to such section or any other similar denial or interference disclosed by such investigation, he shall endeavor by informal methods to persuade the person or persons responsible for such denial or interference to cease and desist from such illegal acts.

SEC. 3. If the Attorney General shall determine that he is unable by the informal methods described in section 2 to eliminate the illegal denial or interference, he may institute for and in the name of the United States a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any such proceeding hereunder, the United States shall be liable for costs the same as a private person.

SEC. 4. The Attorney General shall not make public any admission or other statement by the person or persons complained of made in the course of the informal efforts described in section 2. He shall not disclose the name of the person signing the complaint described in the first section unless he deems such disclosure necessary for the proper performance of his duties.

SEC. 5. The Attorney General is hereby authorized, upon written request of the duly constituted authorities of any State or Territory, or subdivision, agency, or instrumentality thereof, to institute the legal proceeding described in section 3 whenever such authorities allege that any person or persons are preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder,

such authorities from giving or securing to any individual or group of individuals or association his or its right to equal protection of the laws or to any other right guaranteed by the Constitution or the laws of the United States because of color, race, religion, or national origin, or because he or it has opposed any denial of or interference with such rights. The Attorney General is further authorized to institute for and in the name of the United States a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder, the execution of any court order protecting any right guaranteed by the Constitution or the laws of the United States from denial or interference by reason of color, race, religion, or national origin.

SEC. 6. Whenever a suit is brought in the district courts of the United States seeking relief from a denial of or interference with the right to equal protection of the laws or of any other right guaranteed by the Constitution or the laws of the United States because of color, race, religion, or national origin, or because of opposition to such denial or interference, the Attorney General is authorized to intervene in such action with all the rights of a party thereto and to seek compliance with any lawful order issued by such court.

SEC. 7. The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this Act and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 8. Any person cited for an alleged contempt under this Act shall be allowed to make his full defense by counsel learned in the law; and the court before which he is cited or tried, or some judge thereof, shall immediately, upon his request, assign to him such counsel, not exceeding two, as he may desire, who shall have free access to him at all reasonable hours. He shall be allowed in this defense to make any proof that he can produce by lawful witnesses and shall have the like process of the court to compel his witnesses to appear at his trial or hearing, as is usually granted to compel witnesses to appear on behalf of the prosecution. If such person shall be found by the court to be financially unable to provide for such counsel, it shall be the duty of the court to provide such counsel.

SEC. 9. (a) In all cases of criminal contempt arising under the provisions of this Act, the accused, upon conviction, shall be punished by fine or imprisonment or both: *Provided, however,* That in case the accused is a natural person the fine to be paid shall not exceed the sum of \$1,000, nor shall imprisonment exceed the term of six months: *Provided further,* That in any such proceeding for criminal contempt, at the discretion of the judge, the accused may be tried with or without a jury: *Provided further, however,* That in the event such proceeding for criminal contempt be tried before a judge without a jury and the sentence of the court upon conviction is a fine in excess of the sum of \$300 or imprisonment in excess of forty-five days, the accused in said proceeding, upon demand therefor, shall be entitled to a trial de novo before a jury, which shall conform as near as may be to the practice in other criminal cases.

(b) This section shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders, or process of the court.

(c) Nor shall anything herein or in any other provision of law be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

SEC. 10. Nothing in this Act shall be construed as impairing any right guaranteed by the Constitution or laws of the United States or any remedies already existing for their protection or enforcement nor shall anything herein prevent any person or association from seeking to vindicate any constitutional or statutory right by any lawful means.

SEC. 11. If any provision of this Act or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

SEC. 12. This Act may be cited as the "Civil Rights Act of 1959"

[H.R. 913, 86th Cong., 1st sess.]

A BILL To effectuate and enforce the constitutional right to the equal protection of the laws, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SHORT TITLE AND FINDINGS

SEC. 101. This Act may be cited as the "Civil Rights Act of 1959".

SEC. 102. (a) The Congress hereby finds that—

(1) recent decisions of the Supreme Court of the United States holding racial segregation unlawful in public education, public transportation, and public recreational facilities (hereinafter referred to as the antisegregation decisions) as a denial of the constitutional right to the equal protection of the laws express the moral ideals of the Nation and the world and point the way to a nation enhanced in strength and dignity at home and enhanced in honor and prestige throughout the world,

(2) these antisegregation decisions are being resisted in many areas of the Nation most directly affected by them and indirectly evaded in other areas, thereby denying to millions of Americans within our borders the constitutional right to the equal protection of the laws.

(3) many States, municipalities, school districts, and other local governmental units have failed to make a prompt and reasonable start toward full compliance with the Supreme Court's decisions in the field of public education despite the substantial time which has already elapsed since the promulgation of those decisions in 1954 and 1955.

(4) the constitutional right to the equal protection of the laws is being denied to many persons because of race, color, religion, or national origin in fields other than education, transportation, and recreation,

(5) these denials of the constitutional right to the equal protection of the laws restrict millions of Americans to second-class citizenship and deprive the Nation of the maximum development and maximum benefits that can be contributed by such persons, and

(6) legislative and executive action (A) is necessary to safeguard and guarantee to all Americans the constitutional right to equal protection of the laws and (B) will aid in expediting universal compliance with the antisegregation decisions of the Supreme Court.

(b) The Congress further finds that the rights protected by the Constitution, as declared by the antisegregation decisions, will be more widely accepted and more fully enjoyed in all areas of the Nation, and particularly in those areas of the Nation most directly affected by the decisions, when it is generally recognized and understood that—

(1) the Constitution, as declared by the antisegregation decisions, is the supreme law of the land,

(2) all Federal and State officials are bound by their oaths or affirmations to support the Constitution, and

(3) the legislative and executive branches of the Federal Government are acting and will continue to act, with such Federal authority as is found necessary, to protect the constitutional rights upheld by those decisions of the judicial branch of the Government.

(c) The Congress further finds that—

(1) the present system whereby individual plaintiffs in the Federal courts bear the burden of protecting constitutional rights, as declared by the antisegregation decisions, is neither the exclusive nor the most effective means of protecting those constitutional rights and the public interest in safeguarding those constitutional rights, and has resulted in local restrictive and punitive measures against the individuals and organizations engaging in, and supporting, efforts in the courts to assert those constitutional rights, and

(2) specific authorization to the executive branch of the Federal Government to act in support of the constitutional rights upheld by the antisegregation decisions (A) will provide a more rational, uniform, just, and effective system of protecting constitutional rights than the present procedure under which the safeguarding of constitutional rights is determined by the varying resources and courage of individuals and organizations and by

the varying State statutory restrictions placed upon them, and (B) will render less effective, and hence tend to reduce, hostile community pressures upon individuals and organizations seeking to safeguard constitutional rights.

(d) The Congress hereby recognizes it to be the initial responsibility of all States, municipalities, school districts, and other local governmental units to safeguard the constitutional right to the equal protection of the laws as declared by the antisegregation decisions of the Supreme Court and to administer their systems of public education, public transportation, and public recreational facilities in accordance with the Constitution of the United States, but the Federal Government, to maintain a more perfect union, to extend justice, to promote the common defense, and to secure the blessings of liberty to all persons, has a coordinate responsibility to guarantee the constitutional right to the equal protection of the laws, to prevent denials of the right when State or local authorities cannot or will not do so, and thus to enhance the Nation's internal strength and its position throughout the world.

(e) Recognizing its authority and responsibility under the fifth section of the fourteenth amendment to the Constitution of the United States and its obligation to uphold the coordinate authority and responsibility of the judicial branch of the Government, the Congress hereby declares its intention that the right to the equal protection of the laws guaranteed by the Constitution against deprivation by reason of race, color, religion, or national origin and affirmed by the antisegregation decisions of the Supreme Court, shall be protected by all due and reasonable means, and to that end enacts the following provisions of this Act.

TITLE II

TECHNICAL ASSISTANCE BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Sec. 201. The Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the "Secretary") is hereby authorized to render technical assistance to States, municipalities, school districts, and other local governmental units to eliminate denials of constitutional rights in the field of public education by reason of race, color, religion, or national origin and to come into compliance with the decisions of the Supreme Court in the field of public education by—

(a) assembling, publishing, and distributing information which, in his judgment, will prove helpful in obtaining public understanding of, and compliance with, the Constitution and decisions of the Supreme Court in the field of public education ;

(b) surveying the progress made in eliminating segregation in public education in various parts of the country and making available to public agencies, private organizations, private individuals, and the general public the results of such surveys, including wherever possible successful case histories of desegregation and the ways and means utilized to bring about desegregation in such instances ;

(c) planning, calling, and holding local, State, regional, and national conferences attended by State and local officials, representatives of private organizations, and private citizens, to discuss ways and means of eliminating segregation in public education generally or in any particular State, municipality, school district, or other local governmental unit ;

(d) appointing local, State, regional, and national advisory councils to assist the Secretary in carrying out his duties under this Act and to offer their assistance to any State, municipality, school district, or other local governmental unit to come into compliance with the Constitution and the decisions of the Supreme Court in the field of public education ;

(e) reporting to the Congress, at least semiannually, concerning the progress being made in eliminating segregation in public education in various parts of the country ; and

(f) assisting, by such other related means as he deems appropriate, States, municipalities, school districts, and other local governmental units to eliminate segregation in public education.

Sec. 202. The Secretary shall recruit, employ, and train specialists in preparing, putting into effect, and carrying out plans for eliminating segregation in public education and shall offer the services of the specialists to States, municipalities, school districts, and other local governmental units. Upon request of any State, municipality, school district, or other local governmental unit,

the Secretary shall make available to the requesting governmental unit the services of one or more specialists for such periods of time and in such numbers as the Secretary deems necessary and appropriate in the light of the particular needs of the requesting governmental unit.

SEC. 203. (a) The Secretary is authorized to reimburse any State or local official, representative of a private organization, or private citizen who is invited by him to attend any local, State, regional, or national conference held under the authority of section 201(c), and any member of an advisory council appointed under the authority of section 201(d) who is carrying out authorized functions, for travel expenses incurred, and to pay to any such person per diem in lieu of subsistence, in the same amounts as authorized by law (5 U.S.C. 73b-2) for persons in the Government service serving without compensation.

(b) The Secretary is authorized to reimburse any State or local official who, with the approval of the Secretary, is invited to confer with one or more specialists employed by the Secretary under section 202 for travel expenses incurred in attending such conference, and to pay to any such official per diem in lieu of subsistence, in the same amounts as authorized by law (5 U.S.C. 73b-2) for persons in the Government service serving without compensation.

SEC. 204. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1958, and for each of the four succeeding fiscal years, such amounts not to exceed \$2,500,000 in any fiscal year as may be necessary for carrying out the purposes of this title.

TITLE III

GRANTS TO AREAS WHERE DESEGREGATION IN PUBLIC EDUCATION IS BEING CARRIED OUT

SEC. 301. (a) The Secretary is authorized to make grants to States, municipalities, school districts, and other local governmental units which maintained racial segregation in their public schools on May 17, 1954, and which make application for such grants, to assist in meeting the costs of additional educational measures undertaken or to be undertaken to further the process of eliminating segregation in the public schools of the applicant State, municipality, school district, or local governmental unit, while at the same time assuring that existing educational standards will not be lowered.

(b) Grants may be made under this section for—

(1) the cost of employing additional schoolteachers,

(2) the cost of giving to teachers and other school personnel in-service training in dealing with problems incident to desegregation,

(3) the cost of employing specialists in problems incident to desegregation and of providing other assistance to develop understanding by parents, schoolchildren, and the general public of plans and efforts for eliminating segregation in the schools in order to reduce the possibility of community hostility or unlawful resistance to such plans and efforts, and

(4) other costs directly related to the process of eliminating segregation in public schools, including the replacement of State payments to a school district or other political subdivision withdrawn because the applicant district or subdivision is eliminating, or is starting to eliminate segregation.

(c) Grants may also be made under this section for the construction, enlargement, or alteration of school facilities when the Secretary finds that lack or inadequacy of existing facilities makes the carrying out of any reasonable plan for desegregation without lowering existing educational standards impracticable or materially more difficult.

(d) Each application made for a grant under this section shall provide such detailed breakdown of the additional educational measures for which financial assistance is sought as the Secretary may by regulations prescribe.

(e) Each grant under this section shall be made in such amounts and on such terms and conditions as the Secretary shall prescribe, which may include a condition that the applicant expend funds in specified amounts for the purpose for which the grant is made. In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Secretary shall take into consideration—

(1) the amount available for grants under this section and the other applications which are pending before him,

(2) the financial condition of the applicant and the other resources available to it,

(3) the nature, extent, and gravity of its problems incident to desegregation,

(4) whether the additional educational measures undertaken or to be undertaken are reasonably and effectively designed to further the process of eliminating racial segregation, while at the same time assuring that existing educational standards will not be lowered, and

(5) such other factors as he finds relevant.

SEC. 302. The Secretary is further authorized to make grants to public or other nonprofit educational institutions of higher learning to meet or assist in meeting the cost of short-term training courses or institutes, not to exceed four weeks in duration, for personnel of public schools or of educational agencies engaged in or about to undertake desegregation, designed to enable such personnel to deal more effectively with problems incident to desegregation. Such grants may also be used by such institutions to establish and maintain fellowships for such training courses or institutes, covering tuition, fees, and such stipends and allowances (including travel and subsistence expenses) as may be determined by the Secretary.

SEC. 303. Payments of grants under sections 301 and 302 may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary may determine.

SEC. 304. (a) There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1958, and for each of the four succeeding fiscal years, such sums, not exceeding \$40,000,000 for any fiscal year, as may be necessary to carry out the provisions of this title.

(b) In making grants from funds appropriated for any fiscal year for the purposes specified in section 301(b), the Secretary may disregard applications received after August 31 in that fiscal year, or may subordinate such applications to applications received before that date. In the event that he receives, either before or after that date, applications which he considers would materially contribute to carrying out the purposes of this title, but which he cannot grant because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

(c) In the event that the Secretary receives applications for grants for the purpose specified in section 301(c) which he considers would materially contribute to carrying out the purposes of this title, but which he cannot grant because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendations with respect to the appropriation of additional funds.

TITLE IV

ADMINISTRATIVE ACTION DIRECTED TOWARD ELIMINATING SEGREGATION IN PUBLIC EDUCATION

SEC. 401. The Secretary shall make every effort to persuade States, municipalities, school districts, and other local governmental units to make a start toward eliminating segregation in public education and to carry out in full such programs as they may start, and to this end he shall utilize the authority provided in titles II and III.

SEC. 402. Whenever the Secretary shall find that all efforts under titles II and III and under section 401 of this title have failed, and continue to fail, in bringing about a start toward the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit, the Secretary is authorized to prepare a tentative plan for the elimination of segregation in public education in such State, municipality, school district, or other local governmental unit. In preparing such a tentative plan, the Secretary shall seek the advice and assistance of public officials, private organizations, and private citizens in the area and of any local, State, regional, or national advisory council appointed pursuant to section 201(d); and he shall carefully consider such advice and assistance wherever available. Tentative plans prepared by the Secretary under the authority of this section shall take into account the need of the particular area for time to make an orderly adjustment and transition from segregated to desegregated schools.

SEC. 403. (a) Whenever the Secretary has prepared a tentative plan for the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit, he shall forward the plan to the governor, mayor, or other appropriate official, as the case may be. If the State, municipality, school district, or other local governmental unit agrees to put into

effect the tentative plan as proposed by the Secretary or as modified by the State, municipality, school district, or other local governmental unit with the consent of the Secretary, the Secretary shall utilize the authority granted in title II and III to assist the State, municipality, school district, or other local governmental unit in putting into effect the tentative plan.

(b) If the State, municipality, school district, or other local governmental unit (1) does not agree to put into effect the tentative plan as proposed by the Secretary or as modified with his consent, or (2) after agreeing to the tentative plan as so proposed or modified, does not, in the judgment of the Secretary, carry out such tentative plan, the Secretary shall hold a public hearing upon the tentative plan. Notice of such hearing shall be given to the local authorities concerned by registered mail and notice shall be given to private organizations and private citizens within the area by publication in one or more newspapers. Local authorities, private organizations, and private citizens shall be permitted to participate in the hearing and present evidence and argument in favor of the tentative plan, in favor of amendments to the tentative plan, or in opposition to the plan or to any plan, but cumulative evidence may be excluded in the discretion of the Secretary. Anyone shall be permitted to file a written statement with the Secretary in addition to, or in lieu of, personal appearance at the public hearing.

(c) After the hearing provided in subsection (b) has been concluded, the Secretary shall prepare and issue an approved plan for eliminating segregation in public education in the State, municipality, school district, or other local governmental unit. He shall publish the approved plan in the Federal Register and in one or more newspapers in the area affected thereby and shall transmit a certified copy thereof to the appropriate official of the State, municipality, school district, or other local governmental unit involved.

(d) In order that the proceedings under this title shall expedite the elimination of segregation in any State, municipality, school district, or other local governmental unit, the Secretary shall handle all proceedings under this title as expeditiously as possible. The Secretary shall complete any proceedings hereunder within one year from the time that a tentative plan is forwarded to the governor, mayor, or other appropriate official under section 403(a), or, in case a State, municipality, school district, or other local governmental unit agrees to a tentative plan but does not carry it out, within six months from the time that the Secretary determines that such State, municipality, school district, or other local governmental unit is not carrying out such tentative plan.

SEC. 404. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1958, and for each of the four succeeding fiscal years, such amounts as may be necessary for carrying out the purposes of this title.

SEC. 405. The Secretary is authorized to carry out his responsibilities and exercise his authority under this title and under titles II and III through designated personnel in his own office or through any existing bureau, division, or agency of the Department of Health, Education, and Welfare or through a new office created by him for the special purpose of exercising the Secretary's responsibilities hereunder, except that the Secretary shall personally review and sign any approved plan issued under section 403(c).

TITLE V

AUTHORIZATION TO THE ATTORNEY GENERAL IN THE FIELD OF PUBLIC EDUCATION

SEC. 501. (a) Whenever (1) the Secretary has published in the Federal Register an approved plan for the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit pursuant to section 403(c), (2) the State, municipality, school district, or other local governmental unit has rejected the plan or has refused or failed to act in accordance therewith, and (3) the Secretary has certified to the Attorney General that all efforts to secure compliance with the Constitution and the Supreme Court's decisions by conciliation, persuasion, education, and assistance under titles II, III, and IV have failed, the Attorney General of the United States is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against the appropriate officials of the State, municipality, school district, or other local governmental unit, and any individual or individuals acting in concert with such officials to enforce compliance with the approved plan.

(b) The Attorney General is authorized to move to dismiss or discontinue any action brought under subsection (a), or to propose or to agree to a decree adopting a plan for elimination of segregation in public education which is different from the approved plan, whenever he determines that the State, municipality, school district, or other local governmental unit is making, or is prepared to make, a prompt and reasonable start toward full compliance with the Constitution and the Supreme Court's decisions in the field of education and to work toward full compliance with all deliberate speed.

(c) Any interested party may, with the leave of the court, intervene in any action brought under subsection (a), and the court shall consider any proposals by the intervenors, as well as by the defendant or defendants, in determining its final decree.

TITLE VI

OTHER AUTHORIZATIONS TO THE ATTORNEY GENERAL

SEC. 601. (a) Whenever the Attorney General receives a signed complaint that any person or group of persons is being deprived of, or is being threatened with the loss of, the right to the equal protection of the laws by reason of race, color, religion, or national origin and whenever the Attorney General certifies that, in his judgment, such person or group of persons is unable for any reason to seek effective legal protection for the right to the equal protection of the laws, the Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or subdivision or instrumentality thereof, deprives or threatens to deprive such person or group of persons of the right to equal protection of the laws by reason of race, color, religion, or national origin and against any individual or individuals acting in concert with them.

(b) A person or group of persons shall be deemed unable to seek effective legal protection for the right to the equal protection of the laws within the meaning of subsection (a) not only when such person or group of persons is financially unable to bear the expenses of the litigation, but also when there is reason to believe that the institution of such litigation would jeopardize the employment or other economic activity of, or might result in physical harm or economic damage to, such person or group of persons or their families.

(c) Nothing contained in titles IV and V shall limit the authority of the Attorney General to institute and maintain an action under subsection (a).

SEC. 602. The Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for injunction or other order, (1) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder, any Federal, State, or local official from according any person or group of persons the right to the equal protection of the laws without regard to race, color, religion, or national origin, or (2) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder the execution of any court order protecting the right to the equal protection of the laws without regard to race, color, religion, or national origin.

SEC. 603. The Attorney General is authorized, upon receipt of a signed complaint, to institute for or in the name of the United States, a civil action or other proceeding for preventive relief, including an application for injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or territory or subdivision or instrumentality thereof, deprives or threatens to deprive any person or group of persons or association of persons of any right guaranteed by the fourteenth amendment of the Constitution because such person or group of persons or association of persons has opposed or opposes the denial of the equal protection of the laws to others because of race, color, religion, or national origin.

SEC. 604. Whenever a suit is brought in any district court of the United States seeking relief from the deprivation of the right of equal protection of the laws because of race, color, religion, or national origin, the Attorney General is authorized to intervene in such action with all the rights of a party thereto and to seek compliance with any lawful order issued by such district court.

TITLE VII

MISCELLANEOUS PROVISIONS

SEC. 701. The district courts of the United States shall have jurisdiction of proceedings instituted under sections 501, 601, 602, and 603 of this Act and shall exercise the same without regard to whether any administrative or other remedies that may be provided by law shall have been exhausted and, in the case of proceedings instituted under sections 601 and 602, without regard to whether any administrative proceeding is pending or contemplated under title IV, it being the purpose of title IV to expedite, not delay, the elimination of segregation in public education throughout the Nation. In any proceeding hereunder, the United States shall be liable for costs the same as a private person.

SEC. 702. Nothing in this Act or in any administrative proceeding hereunder shall be construed to impair any right guaranteed by the Constitution or laws of the United States or any remedies already existing for their protection or enforcement, nor to prevent any private individual or organization from acting to enforce or safeguard any constitutional right in any manner now permitted by law.

SEC. 703. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

[H.R. 914, 86th Cong., 1st sess.]

A BILL For the better assurance of the protection of citizens of the United States and other persons within the several States from mob violence and lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this Act are enacted in exercise of the power of Congress to enforce, by appropriate legislation, the provisions of the fourteenth amendment to the Constitution of the United States, and for the purpose of better assuring under such amendment equal protection and due process of law by the several States to all persons charged with or suspected or convicted of any offense within their jurisdiction.

DEFINITIONS

SEC. 2. Any assemblage of two or more persons which shall, without authority of law, (1) commit or attempt to commit violence upon the person of any citizen or citizens of the United States because of his or their race, creed, color, national origin, ancestry, language, or religion, or (2) exercise or attempt to exercise, by physical violence against the person, any power of correction or punishment over any citizen or citizens of the United States or other person or persons in the custody of any peace officer or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such citizen or citizens or person or persons, or of imposing a punishment not authorized by law, shall constitute a lynch mob within the meaning of this Act. Any such violence by a lynch mob shall constitute lynching within the meaning of this Act.

PUNISHMENT FOR LYNCHING

SEC. 3. Any person whether or not a member of a lynch mob who willfully instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, and any member of a lynch mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding \$10,000 or by imprisonment not exceeding twenty years, or by both such fine and imprisonment.

PUNISHMENT FOR FAILURE TO PREVENT LYNCHING

SEC. 4. Whenever a lynching shall occur, any officer or employee of a State or any governmental subdivision thereof who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any officer or employee of a State or governmental subdivision thereof who shall have had custody of the

person or persons lynched and shall have neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching, and any officer or employee of a State or governmental subdivision thereof who, in violation of his duty as such officer or employee, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynch mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding \$5,000 or by imprisonment not exceeding five years, or by both such fine and imprisonment.

DUTY OF THE ATTORNEY GENERAL OF THE UNITED STATES

SEC. 5. Whenever a lynching of any person or persons shall occur, an information on oath is submitted to the Attorney General of the United States that any officer or employee of a State or any governmental subdivision thereof who shall have been charged with the duty or shall have processed the authority as such officer or employee to prevent the lynching or protect such person or persons from lynching, or who shall have had custody of the person or persons lynched, has neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching or protect such persons or persons from lynching, or that any officer or employee of a State or governmental subdivision thereof, in violation of his duty as such officer or employee, has neglected, refused, or willfully failed to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynch mob, the Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this Act.

COMPENSATION FOR VICTIMS OF LYNCHING

SEC. 6. (a) Every governmental subdivision of a State to which the State shall have delegated police functions shall be responsible for any lynching occurring within its territorial jurisdiction. Every such governmental subdivision shall also be responsible for any lynching which follows upon the seizure and abduction of the victim or victims within its territorial jurisdiction, irrespective of whether such lynching occurs within its territorial jurisdiction or not. Any such governmental subdivision which shall fail to prevent any such lynching or any such seizure and abduction followed by lynching shall be liable to each individual who suffers injury to his or her person as a result of such lynching, or to his or her next of kin if such injury results in death, for a sum of not less than \$2,000 and not more than \$10,000 as monetary compensation for such injury or death: *Provided, however,* That the governmental subdivision may prove by a preponderance of evidence as an affirmative defense that the officers thereof charged with the duty of preserving the peace, and the citizens thereof, when called upon by any such officer, used all diligence and all powers vested in them for the protection of the person lynched: *And provided further,* That the satisfaction of judgment against one governmental subdivision responsible for a lynching shall bar further proceedings against any other governmental subdivision which may also be responsible for that lynching.

(b) Liability arising under this section may be enforced and the compensation herein providing for may be recovered in a civil action in the United States district court for the judicial district of which the defendant governmental subdivision is a part. Such action shall be brought and prosecuted by the Attorney General of the United States in the name of the United States for the use of the real party in interest, or, if the claimant or claimants shall so elect, by counsel employed by the claimant or claimants, but in any event without prepayment of costs. If the amount of any such judgment shall not be paid upon demand, payment thereof may be enforced by any process available under the State law for the enforcement of any other money judgment against such governmental subdivision. Any officer of such governmental subdivision or any other person who shall disobey or fail to comply with any lawful order or decree of the court for the enforcement of the judgment shall be guilty of contempt of that court and punished accordingly. The cause of action accruing hereunder to a person injured by lynching shall not abate with the subsequent death of that person before final judgment but shall survive to his or her next of kin. For the purpose of this Act the next of kin of a deceased victim of lynching shall be determined according to the laws of intestate distribution in the State of domicile of the decedent. Any judgment or award under this Act shall be exempt from all claims of creditors.

(c) Any judge of the United States district court for the judicial district wherein any suit shall be instituted under the provisions of this Act may by order direct that such suit be tried in any place in such district which he may designate in such order, except that no such suit shall be tried within the territorial limits of the defendant governmental subdivision.

KIDNAPING

Sec. 7. The crime defined in and punishable under section 1201 of title 18, United States Code, shall include the transportation in interstate or foreign commerce of any person unlawfully abducted and held for purposes of punishment, coercion, or intimidation.

SEPARABILITY CLAUSE

Sec. 8. If any particular provision of this Act, or the application thereof to any particular person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SHORT TITLE

Sec. 9. This Act may be cited as the "Federal Antilynching Act".

[H.R. 1902, 86th Cong., 1st sess.]

A BILL For the better assurance of the protection of citizens of the United States and other persons within the several States from mob violence and lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this Act are enacted in exercise of the power of Congress to enforce, by appropriate legislation, the provisions of the fourteenth amendment to the Constitution of the United States and for the purpose of better assuring by the several States under said amendment equal protection and due process of law to all persons charged with or suspected or convicted of any offense within their jurisdiction.

DEFINITIONS

Sec. 2. Any assemblage of two or more persons which shall, without authority of law, (a) commit or attempt to commit violence upon the person of any citizen or citizens of the United States because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by physical violence against the person, any power of correction or punishment over any citizen or citizens of the United States or other person or persons in the custody of any peace officer or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such citizen or citizens, person or persons, or of imposing a punishment not authorized by law, shall constitute a lynch mob within the meaning of this Act. Any such violence by a lynch mob shall constitute lynching within the meaning of this Act.

PUNISHMENT FOR LYNCHING

Sec. 3. Any person whether or not a member of a lynch mob who willfully instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, and any member of a lynch mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding \$10,000 or by imprisonment not exceeding twenty years, or by both such fine and imprisonment.

PUNISHMENT FOR FAILURE TO PREVENT LYNCHING

Sec. 4. Whenever a lynching shall occur, any officer or employee of a State or any governmental subdivision thereof, who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any officer or employee of a State or gov-

ernmental subdivision thereof who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching, and any officer or employee of a State or governmental subdivision thereof who, in violation of his duty as such officer or employee, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any members of the lynching mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding \$5,000 or by imprisonment not exceeding five years, or by both such fine and imprisonment.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

Sec. 5. Whenever a lynching of any person or persons shall occur, and information, on oath is submitted to the Attorney General of the United States that any officer or employee of a State or any governmental subdivision thereof who shall have been charged with the duty or shall have possessed the authority as such officer or employee to protect such person or persons from lynching, or who shall have had custody of the person or persons lynched, has neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching or that any officer or employee of a State or governmental subdivision thereof, in violation of his duty as such officer or employee, has neglected, refused, or willfully failed to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, the Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this Act.

COMPENSATION FOR VICTIMS OF LYNCHING

Sec. 6. (a) Every governmental subdivision of a State to which the State shall have delegated functions of police shall be responsible for any lynching occurring within its territorial jurisdiction. Every such governmental subdivision shall also be responsible for any lynching which follows upon the seizure and abduction of the victim or victims within its territorial jurisdiction, irrespective of whether such lynching occurs within its territorial jurisdiction or not. Any such governmental subdivision which shall fail to prevent any such lynching or any such seizure and abduction followed by lynching shall be liable to each individual who suffers injury to his or her person, or to his or her next of kin if such injury results in death, for a sum of not less than \$2,000 and not more than \$10,000 as monetary compensation for such injury or death: *Provided, however*, That the governmental subdivision may prove by a preponderance of evidence as an affirmative defense that the officers thereof charged with the duty of preserving the peace, and the citizens thereof, when called upon by any such officer, used all diligence and all powers vested in them for the protection of the person lynched: *And provided further*, That the satisfaction of judgment against one government subdivision responsible for a lynching shall bear further proceedings against any other governmental subdivision which may also be responsible for that lynching.

(b) Liability arising under this section may be enforced and the compensation herein provided for may be recovered in a civil action in the United States district court for the judicial circuit of which the defendant governmental subdivision is a part. Such action shall be brought and prosecuted by the Attorney General of the United States in the name of the United States for the use of the real party in interest, or, if the claimant or claimants shall so elect, by counsel employed by the claimant or claimants, but in any event without prepayment of costs. If the amount of any such judgment shall not be paid upon demand, payment thereof may be enforced by any process available under the State law for the enforcement of any other money judgment against such governmental subdivision. Any officer of such governmental subdivision or any other person who shall disobey or fail to comply with any lawful order or decree of the court for the enforcement of the judgment shall be guilty of contempt of that court and punished accordingly. The cause of action accruing hereunder to a person injured by lynching shall not abate with the subsequent death of that person before final judgment but shall survive to his or her next of kin. For the purpose of this Act the next of kin of a deceased victim of lynching shall be determined according to the laws of intestate distribution in the State of domicile of the decedent. Any judgment or award under this Act shall be exempt from all claims of creditors.

(c) Any judge of the United States district court for the judicial district wherein any suit shall be instituted under the provisions of this Act may by order direct that such suit be tried in any place in such district as he may designate in such order: *Provided*, That no such suit shall be tried within the territorial limits of the defendant governmental subdivision.

SEC. 7. The crime defined in and punishable under section 1201 of title 18 of the United States Code shall include the transportation in interstate or foreign commerce of any person unlawfully abducted and held for purposes of punishment, correction, or intimidation.

SEPARABILITY CLAUSE

SEC. 8. If any particular provision, sentence, or clause, or provisions, sentences, or clauses of this Act, or the application thereof to any particular person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SHORT TITLE

SEC. 9. This Act may be cited as the "Federal Antilynching Act".

[H.R. 2346, 86th Cong., 1st sess.]

A BILL To amend part III of the Civil Rights Act of 1957

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part III of the Civil Rights Act of 1957 (71 Stat. 637) is amended by adding at the end thereof the following new section:

"SEC. 123. (a) The Attorney General is authorized, upon written complaint or information on oath or affirmation of any person who is subject to or threatened with the loss of his right to equal protection of the laws by reason of race, color, religion, or national origin, and who is unable because of financial inability or other reason effectively to prosecute a Federal civil proceeding on his own behalf, to institute for or in the name of the United States, a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any person or persons acting under color of any statute, ordinance, regulation, custom, or usage of any State or Territory, or subdivision or instrumentality thereof, or who conspires with such person or persons, to deprive or threaten to deprive any person of his rights to equal protection of the laws by reason of his race, color, religion, or national origin.

"(b) The Attorney General is hereby authorized, upon written request of the duly constituted authorities of any State or Territory, or municipality, subdivision or instrumentality thereof, to institute for or in the name of the United States, a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any two or more persons who conspire through violence, threats or otherwise to prevent or hinder such duly constituted authorities from giving or securing to any person his right to equal protection of the laws.

"(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether any administrative or other remedies that may be provided by law shall have been exhausted. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"(d) Nothing in this section shall impair any right secured by the Constitution and laws of the United States, or any remedies already existing for their protection and enforcement."

[H.R. 2479, 86th Cong., 1st sess.]

A BILL To amend part III of the Civil Rights Act of 1957

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part III of the Civil Rights Act of 1957 (71 Stat. 637) is amended by adding at the end thereof the following new section:

"SEC. 123. (a) The Attorney General is authorized, upon written complaint or information on oath or affirmation of any person who is subject to or threatened with the loss of his right to equal protection of the laws by reason of race,

color, religion, or national origin, and who is unable because of financial inability or other reason effectively to prosecute a Federal civil proceeding on his own behalf, to institute for or in the name of the United States, a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any person or persons acting under color of any statute, or ordinance, regulation, custom, or usage of any State or Territory, or subdivision or instrumentality thereof, or who conspires with such person or persons, to deprive or threaten to deprive any person of his rights to equal protection of the laws by reason of his race, color, religion, or national origin.

"(b) The Attorney General is hereby authorized, upon written request of the duly constituted authorities of any State or Territory, or municipality, subdivision or instrumentality thereof, to institute for or in the name of the United States, a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any two or more persons who conspire through violence, threats or otherwise to prevent or hinder such duly constituted authorities from giving or securing to any person his right to equal protection of the laws.

"(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether any administrative or other remedies that may be provided by law shall have been exhausted. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"(d) Nothing in this section shall impair any right secured by the Constitution and laws of the United States, or any remedies already existing for their protection and enforcement."

[H.R. 2538, 86th Cong., 1st sess.]

A BILL To amend the Civil Rights Act of 1957 to provide that the Civil Rights Commission shall have until January 2, 1961, to submit its report, findings, and recommendations

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 104(b) of the Civil Rights Act of 1957 is amended by striking out "two years from the date of enactment of this Act," and inserting in lieu thereof "January 2, 1961."

[H.R. 2786, 86th Cong., 1st sess.]

A BILL To protect and enforce the constitutional right of all persons to the equal protection of the laws, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1959".

SEC. 2. (a) The Congress hereby finds and declares the following facts to exist:

(1) The decisions of the courts of the United States, holding that racial segregation compelled by statute or regulation is unconstitutional and violates the constitutional right to the equal protection of the laws, express the moral ideals of the Nation and the world and point the way to enhancing the honor, strength and dignity of our Nation at home and throughout the world.

(2) These antisegregation decisions are being resisted or evaded in many areas of the Nation, thereby denying to millions of persons within our borders their constitutional rights to the equal protection of the laws,

(3) Several States, and many municipalities, school districts, and other local governmental units have failed to make a prompt and reasonable start toward full compliance with the Supreme Court's decisions in the field of public education despite the substantial time which has already elapsed since the promulgation of those decisions in 1954 and 1955,

(4) The constitutional right to the equal protection of the laws is being denied to many persons because of race, color, religion, ancestry, or national origin in many aspects of their life, and such denials impose on millions of citizens in the United States a status of second-class citizenship and deprive the Nation of the maximum development and maximum benefits that can be contributed by such persons.

(5) Legislative and executive action is necessary to protect and guarantee to all persons in the United States their constitutional rights to equal protection of the laws,

(6) The present system whereby individual plaintiffs in the Federal courts bear the burden of protecting constitutional rights is not the most effective means of protecting the constitutional right to equal protection of the laws, particularly where local restrictive and punitive measures are used against any individual or organization engaging in, and supporting, efforts to assert those constitutional rights in the courts. Action by the executive branch of the Federal Government to support the constitutional right to equal protection of the laws is often a more rational, uniform, just, and effective way of protecting constitutional rights than the present procedure under which the safeguarding of such constitutional rights is determined by the varying resources and courage of individuals and organizations and by the varying legal and other restrictions placed upon them. Such action by the Federal Government will render less effective, and hence tend to reduce, hostile community pressures upon individuals and organizations seeking to safeguard constitutional rights, and

(7) The initial responsibility for equal protection of the laws rests upon each State, municipality, school district, or other local governmental unit having responsibility for the enactment and administration of laws or regulations, or the supervision of any public facility, but the Federal Government, in order to maintain a more perfect union, extend justice, promote the common defense, and secure the blessings of liberty to all persons, also has a responsibility to guarantee the constitutional right to the equal protection of the laws, to prevent denials of that right when State or local authorities cannot or will not do so, and thus to enhance the Nation's strength and its respect throughout the world.

TITLE I—TECHNICAL ASSISTANCE BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE

SEC. 101. The Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the "Secretary") is hereby authorized to render technical assistance to aid in eliminating or preventing denials of constitutional rights by reason of race, color, religion, ancestry, or national origin and to aid States, municipalities, school districts and other local governmental units to come into compliance with the decisions of the Supreme Court by—

(a) assembling, publishing, and distributing information which, in his judgment, will prove helpful in obtaining public understanding of, and compliance with, the Constitution and the decisions of the Supreme Court holding racial segregation unconstitutional;

(b) surveying the progress made in eliminating racial segregation in various parts of the country and making available to public agencies and private organizations and individuals the results of such surveys, including wherever possible successful case histories of desegregation and the ways and means utilized to bring about such desegregation;

(c) planning, calling, and holding local, State, regional, and national conferences attended by State and local officials, representatives of private organizations, and private citizens, to discuss ways and means of eliminating compulsory racial segregation generally or in any particular State, municipality, school district, or other local governmental unit;

(d) appointing local, State, regional, and national advisory councils to assist the Secretary in carrying out his duties under this Act and to offer their assistance to any State, municipality, school district, or other local governmental unit to come into compliance with the Constitution and the decisions of the Supreme Court in regard to racial segregation and other forms of racial discrimination;

(e) reporting to the Congress, at least semiannually, concerning the progress being made in eliminating segregation in various parts of the country; and

(f) assisting, by such other related means as he deems appropriate, States, municipalities, school districts, and other local government units to eliminate compulsory racial segregation.

SEC. 102. The Secretary shall recruit, employ, and train specialists in preparing, putting into effect, and carrying out plans for eliminating compulsory racial segregation in public education and shall offer the services of such specialists to States, municipalities, school districts, and other local governmental units. Upon request of any State, municipality, school district, or other local

governmental unit, the Secretary shall make available to the requesting governmental unit the services of one or more specialists for such periods of time and in such numbers as the Secretary deems necessary and appropriate in the light of the particular needs of the requesting governmental units.

SEC. 103. (a) The Secretary is authorized to reimburse any State or local official, representative of a private organization, or private citizen who is invited by him to attend any local, State, regional, or national conference held under the authority of section 101(c), any member of an advisory council appointed under the authority of section 101(d) who is carrying out authorized functions, and any State or local official who, with the approval of the Secretary, is invited to confer with one or more specialists employed by the Secretary under section 102, for travel expenses actually incurred, and to pay to any such person per diem in lieu of subsistence, in the same amounts as authorized by law (5 U.S.C. 73b-2) for persons in the Government service serving without compensation.

SEC. 104. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1959, and for each of the four succeeding fiscal years, such amounts not to exceed \$3,000,000 in any fiscal year as may be necessary for carrying out the purposes of this title.

TITLE II—GRANTS TO AREAS WHERE RACIAL DESEGREGATION IN PUBLIC EDUCATION IS BEING CARRIED OUT

SEC. 201. (a) The Secretary is authorized to make grants to States, municipalities, school districts, and other local governmental units which maintained racial segregation in their public schools on May 17, 1954, and which make application for such grants, to assist in meeting the costs of additional educational measures undertaken or to be undertaken to further the process of eliminating racial segregation in the public schools of the applicant State, municipality, school district, or local governmental unit, while at the same time assuring that existing educational standards will not be lowered.

(b) Grants may be made under this section for—

- (1) the cost of employing additional schoolteachers;
- (2) the cost of giving to teachers and other school personnel in-service training in dealing with problems incident to racial desegregation;
- (3) the cost of employing specialists in problems incident to racial desegregation and of providing other assistance to develop understanding by parents, schoolchildren, and the general public of plans and efforts for eliminating racial segregation in the schools in order to reduce the possibility of community hostility or unlawful resistance to such plans and efforts; and
- (4) other costs directly related to the process of eliminating racial segregation in public schools, including the replacement of State payments to a school district or other political subdivision withdrawn because the applicant district or subdivision is eliminating or is starting to eliminate racial segregation.

(c) Grants may also be made under this section for the construction, enlargement, or alteration of school facilities when the Secretary finds that lack or inadequacy of existing facilities makes the carrying out of any reasonable plan for racial desegregation without lowering existing educational standards impracticable or materially more difficult.

(d) Each application made for a grant under this section shall provide such detailed breakdown of the additional educational measures for which financial assistance is sought as the Secretary may by regulations prescribe.

(e) Each grant under this section shall be made in such amounts and on such terms and conditions as the Secretary shall prescribe, which may include a condition that the applicant expend funds in specified amounts for the purpose for which the grant is made. In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Secretary shall take into consideration—

- (1) the amount available for grants under this section and the other applications which are pending before him,
- (2) the financial condition of the applicant and the other resources available to it,
- (3) the nature, extent, and gravity of its problems incident to racial desegregation,
- (4) whether the additional educational measures undertaken or to be undertaken are reasonably and effectively designed to further the process

of eliminating racial segregation, while at the same time assuring that existing educational standards will not be lowered, and

(5) such other factors as he finds relevant.

SEC. 202. The Secretary is further authorized to make grants to public or other nonprofit educational institutions of higher learning to meet or assist in meeting the cost of short-term training courses or institutes, not to exceed four weeks in duration, for personnel of public schools or of educational agencies engaged in or about to undertake racial desegregation, designed to enable such personnel to deal more effectively with problems incident to such desegregation. Such grants may also be used by such institutions to establish and maintain fellowships for such training courses or institute, covering tuition, fees, and such stipends and allowances (including travel and subsistence expenses) as may be determined by the Secretary.

SEC. 203. Payments of grants under sections 201 and 202 may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary may determine.

SEC. 204. (a) There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1959, and for each of the four succeeding fiscal years, such sums, not exceeding \$50,000,000 for any fiscal year, as may be necessary to carry out the provisions of this title.

(b) In making grants from funds appropriated for any fiscal year for the purposes specified in section 201(b), the Secretary may disregard applications received after August 31 in that fiscal year, or may subordinate such applications to applications received before that date. In the event that he receives, either before or after that date, applications for grants for the purpose specified in section 201(b), or applications for grants for the purpose specified in section 201(c), whose expenditure he considers would materially contribute to carrying out the purposes of this title, but which he cannot grant, in whole or in part, because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

TITLE III—ELIMINATING RACIAL SEGREGATION IN PUBLIC EDUCATION

SEC. 301. The Secretary shall make every effort to persuade States, municipalities, school districts, and other local governmental units to make a start toward eliminating racial segregation in public education and to carry out in full such programs as they may start, and to this end he shall utilize the authority provided in titles I and II.

SEC. 302. Whenever the Secretary shall find that all efforts under titles I and II and under section 301 of this title have failed, and continue to fail, in bringing about a start toward the elimination of racial segregation in public education in any State, municipality, school district, or other local governmental unit, the Secretary is authorized to prepare a tentative plan for the elimination of racial segregation in public education in such State, municipality, school district, or other local governmental unit. In preparing such a tentative plan, the Secretary shall seek the advice and assistance of public officials, private organizations, and private citizens in the area and of any local, State, regional, or national advisory council appointed pursuant to section 101(d); and he shall carefully consider such advice and assistance wherever available. Tentative plans prepared by the Secretary under the authority of this section shall take into account the need of the particular area for time to make an orderly adjustment and transition from racially segregated to desegregated schools.

SEC. 303. (a) Whenever the Secretary has prepared a tentative plan for the elimination of racial segregation in public education in any State, municipality, school district, or other local governmental unit, he shall forward the plan to the governor, mayor, or other appropriate official, as the case may be. If the State, municipality, school district, or other local governmental unit agrees to put into effect the tentative plan as proposed by the Secretary or as modified by the State, municipality, school district, or other local governmental unit with the consent of the Secretary, the Secretary shall utilize the authority granted in titles I and II to assist the State, municipality, school district, or other local governmental unit in putting into effect the tentative plan.

(b) If the State, municipality, school district, or other local governmental unit (1) does not agree to put into effect the tentative plan as proposed by the Secretary or as modified with his consent, or (2) after agreeing to the

tentative plan as so proposed or modified, does not, in the judgment of the Secretary, carry out such tentative plan, the Secretary shall hold a public hearing upon the tentative plan. Notice of such hearing shall be given to the local authorities concerned by registered mail and notice shall be given to private organizations and private citizens within the area by publication in one or more newspapers. Local authorities, private organizations, and private citizens shall be permitted to participate in the hearing and present evidence and argument in favor of, or in opposition to, the tentative plan, any amendments thereto, or any plan, but cumulative evidence may be excluded in the discretion of the Secretary. Anyone shall be permitted to file a written statement with the Secretary in addition to, or in lieu of, personal appearance at the public hearing.

(c) After the hearing provided in subsection (b) has been concluded, the Secretary shall prepare and issue an approved plan for eliminating racial segregation in public education in the State, municipality, school district, or other local governmental unit. He shall publish the approved plan in the Federal Register and in one or more newspapers in the area affected thereby and shall transmit a certified copy thereof to the appropriate official of the State, municipality, school district, or other local governmental unit involved.

(d) In order that the proceedings under this title shall expedite the elimination of racial segregation in any State, municipality, school district, or other local governmental unit, the Secretary shall handle all proceedings under this title as expeditiously as possible. The Secretary shall complete any proceedings hereunder within one year from the time that a tentative plan is forwarded to the governor, mayor, or other appropriate official under section 303(a), or, in case a State, municipality, school district, or other local governmental unit agrees to a tentative plan but does not carry it out, within six months from the time that the Secretary determines that such State, municipality, school district, or other local governmental unit is not carrying out such tentative plan.

SEC. 304. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1959, and for each of the four succeeding fiscal years, such amounts as may be necessary for carrying out the purposes of this title.

SEC. 305. The Secretary is authorized to carry out his responsibilities and exercise his authority under this title and under titles I and II through designated personnel in his own office or through any existing bureau, division, or agency of the Department of Health, Education, and Welfare or through a new office created by him for the special purpose of exercising the Secretary's responsibilities hereunder, except that the Secretary shall personally review and sign any approved plan issued under section 303(c).

SEC. 306. (a) Whenever (1) the Secretary has published in the Federal Register an approved plan for the elimination of racial segregation in public education in any State, municipality, school district, or other local governmental unit pursuant to section 303(c), (2) the State, municipality, school district, or other local governmental unit has rejected the plan or has refused or failed to act in accordance therewith, and (3) the Secretary has certified to the Attorney General that all efforts to secure compliance with the Constitution and the Supreme Court's decisions by conciliation, persuasion, education, and assistance under titles I, II, and III have failed, the Attorney General of the United States is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against the appropriate officials of the State, municipality, school district, or other local governmental unit, and any individual or individuals acting in concert with such officials, to enforce compliance with the approved plan.

(b) The Attorney General is authorized to move to dismiss or discontinue any action brought under subsection (a) of this section, or to propose or to agree to a decree adopting a plan for elimination of racial segregation in public education which is different from the approved plan, whenever he determines that the State, municipality, school district, or other local governmental unit is making, or is prepared to make, a prompt and reasonable start toward full compliance with the Constitution and the Supreme Court's decisions in the field of education and to work toward full compliance with all deliberate speed.

(c) Any person may, with the leave of the court, intervene in any action brought under subsection (a) of this section, and the court shall consider any proposals by the intervenors, as well as by the parties, in determining its final decree.

TITLE IV—SUITS BY THE ATTORNEY GENERAL TO INSURE THE RIGHT TO EQUAL PROTECTION OF THE LAWS

SEC. 401. (a) Whenever the Attorney General receives a signed complaint that any person or group of persons is being deprived of, or is being threatened with the loss of, the right to the equal protection of the laws by reason of race, color, religion, ancestry, or national origin and the Attorney General certifies that, in his judgment, such person or group of persons is unable for any reason to obtain effective legal protection for the right to the equal protection of the laws, the Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or subdivision or instrumentality thereof, deprives or threatens to deprive such person or group of persons of the right to equal protection of the laws by reason of race, color, religion, ancestry, or national origin and against any individual or individuals acting in concert with them.

(b) A person or group of persons shall be deemed unable to obtain effective legal protection for the right to the equal protection of the laws within the meaning of subsection (a) of this section when such person or group of persons is financially unable to bear the expenses of the litigation, or when there is reason to believe that the institution of such litigation would jeopardize the employment or other economic activity of, or might result in physical harm or economic damage to, such person or group of persons or their families.

(c) Nothing contained in title III shall limit the authority of the Attorney General to institute and maintain an action under subsection (a) of this section.

SEC. 402. The Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for injunction or other order, (1) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder, any Federal, State, or local official from according any person or group of persons the right to the equal protection of the laws without regard to race, color, religion, ancestry, or national origin, or (2) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder the execution of any court order protecting the right to the equal protection of the laws without regard to race, color, religion, ancestry, or national origin.

SEC. 403. The Attorney General is authorized, upon receipt of a signed complaint, to institute for or in the name of the United States, a civil action or other proceedings for preventive relief, including an application for injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or subdivision or instrumentality thereof, deprives or threatens to deprive any person or group of persons or association of persons of any right guaranteed by the fourteenth amendment of the Constitution because such person or group of persons or association of persons has opposed or opposes the denial of the equal protection of the laws to others because of race, color, religion, ancestry, or national origin.

SEC. 404. Whenever a suit is brought in any district court of the United States seeking relief from the deprivation of the right of equal protection of the laws because of race, color, religion, ancestry, or national origin, the Attorney General is authorized to intervene in such action with all the rights of a party thereto and to seek compliance with any lawful order issued by such district court.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. The district courts of the United States shall have jurisdiction of proceedings instituted under section 306 or title IV of this Act and shall exercise the same without regard to whether any administrative or other remedies that may be provided by law shall have been exhausted and, in the case of proceedings instituted under title IV, without regard to whether any administrative proceeding is pending or contemplated under title III, it being the purpose of title III to expedite, not delay, the elimination of racial segregation in public education throughout the Nation. In any proceeding hereunder, the United States shall be liable for costs the same as a private person.

SEC. 502. Nothing in this Act or in any administrative proceeding hereunder shall be construed to impair any right guaranteed by the Constitution or laws

of the United States or any remedies already existing for their protection or enforcement, nor to prevent any private individual or organization from acting to enforce or safeguard any constitutional right in any manner now permitted by law.

SEC. 503. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

[H.R. 3090, 86th Cong., 1st sess.]

A BILL To provide further means of securing and protecting the right of persons within the jurisdiction of the several States to the equal protection of the laws and other civil rights guaranteed by the Constitution or laws of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the Attorney General shall receive a signed complaint that any person or persons has engaged in, or is about to engage in, any act or practice under color of law that would illegally deny or deprive any individual or group of individuals or association of his or its right to equal protection of the laws or to any other right guaranteed by the Constitution or the laws of the United States, or would interfere with, violate, or invade such rights, because of color, race, religion, or national origin or because he or its has opposed such denial or interference, the Attorney General shall promptly cause an investigation to be made of such complaint.

SEC. 2. If the Attorney General after the investigation described in the first sentence shall find that probable cause exists to credit any complaint filed pursuant to such section or any other similar denial or interference disclosed by such investigation, he shall endeavor by informal methods to persuade the person or persons responsible for such denial or interference to cease and desist from such illegal acts.

SEC. 3. If the Attorney General shall determine that he is unable by the informal methods described in section 2 to eliminate the illegal denial or interference, he may institute for and in the name of the United States a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any such proceeding hereunder, the United States shall be liable for costs the same as a private person.

SEC. 4. The Attorney General shall not make public any admission or other statement by the person or persons complained of made in the course of the informal efforts described in section 2. He shall not disclose the name of the person signing the complaint described in the first section unless he deems such disclosure necessary for the proper performance of his duties.

SEC. 5. The Attorney General is hereby authorized, upon written request of the duly constituted authorities of any State or Territory, or subdivision, agency, or instrumentality thereof, to institute the legal proceeding described in section 3 whenever such authorities allege that any person or persons are preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder, such authorities from giving or securing to any individual or group of individuals or association his or its right to equal protection of the laws or to any other right guaranteed by the Constitution or the laws of the United States because of color, race, religion, or national origin, or because he or it has opposed any denial of or interference with such rights. The Attorney General is further authorized to institute for and in the name of the United States a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder, the execution of any court order protecting any right guaranteed by the Constitution or the laws of the United States from denial or interference by reason of color, race, religion, or national origin.

SEC. 6. Whenever a suit is brought in the district courts of the United States seeking relief from a denial of or interference with the right to equal protection of the laws or of any other right guaranteed by the Constitution or the laws of the United States because of color, race, religion, or national origin, or because of opposition to such denial or interference, the Attorney General is

authorized to intervene in such action with all the rights of a party thereto and to seek compliance with any lawful order issued by such court.

SEC. 7. The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this Act and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 8. Any person cited for an alleged contempt under this Act shall be allowed to make his full defense by counsel learned in the law; and the court before which he is cited or tried, or some judge thereof, shall immediately, upon his request, assign to him such counsel, not exceeding two, as he may desire, who shall have free access to him at all reasonable hours. He shall be allowed in his defense to make any proof that he can produce by lawful witnesses and shall have the like process of the court to compel his witnesses to appear at his trial or hearing, as is usually granted to compel witnesses to appear on behalf of the prosecution. If such person shall be found by the court to be financially unable to provide for such counsel, it shall be the duty of the court to provide such counsel.

SEC. 9. (a) In all cases of criminal contempt arising under the provisions of this Act, the accused, upon conviction, shall be punished by fine or imprisonment or both: *Provided, however*, That in case the accused is a natural person the fine to be paid shall not exceed the sum of \$1,000, nor shall imprisonment exceed the term of six months: *Provided further*, That in any such proceeding for criminal contempt, at the discretion of the judge, the accused may be tried with or without a jury: *Provided further, however*, That in the event such proceeding for criminal contempt be tried before a judge without a jury and the sentence of the court upon conviction is a fine in excess of the sum of \$300 or imprisonment in excess of forty-five days, the accused in said proceeding, upon demand therefor, shall be entitled to a trial de novo before a jury, which shall conform as near as may be to the practice in other criminal cases.

(b) This section shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders, or process of the court.

(c) Nor shall anything herein or in any other provision of law be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

SEC. 10. Nothing in this Act shall be construed as impairing any right guaranteed by the Constitution or laws of the United States or any remedies already existing for their protection or enforcement nor shall anything herein prevent any person or association from seeking to vindicate any constitutional or statutory right by any lawful means.

SEC. 11. If any provision of this Act or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

SEC. 12. This Act may be cited as the "Civil Rights Act of 1959."

[H.R. 3147, 86th Cong., 1st sess.]

A BILL To effectuate and enforce the constitutional right to the equal protection of the laws, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SHORT TITLE AND FINDINGS

SEC. 101. This Act may be cited as the "Civil Rights Act of 1959."

SEC. 102. (a) The Congress hereby finds that—

(1) recent decisions of the Supreme Court of the United States holding racial segregation unlawful in public education, public transportation, and public recreational facilities (hereinafter referred to as the antisegregation decisions) as a denial of the constitutional right to the equal protection

of the laws express the moral ideals of the Nation and the world and point the way to a nation enhanced in strength and dignity at home and enhanced in honor and prestige throughout the world,

(2) these antisegregation decisions are being resisted in many areas of the Nation most directly affected by them and indirectly evaded in other areas, thereby denying to millions of Americans within our borders the constitutional right to the equal protection of the laws,

(3) many States, municipalities, school districts, and other local governmental units have failed to make a prompt and reasonable start toward full compliance with the Supreme Court's decisions in the field of public education despite the substantial time which has already elapsed since the promulgation of those decisions in 1954 and 1955,

(4) the constitutional right to the equal protection of the laws is being denied to many persons because of race, color, religion, or national origin in fields other than education, transportation, and recreation,

(5) these denials of the constitutional right to the equal protection of the laws restrict millions of Americans to second-class citizenship and deprive the Nation of the maximum development and maximum benefits that can be contributed by such persons, and

(6) legislative and executive action (A) is necessary to safeguard and guarantee to all Americans the constitutional right to equal protection of the laws and (B) will aid in expediting universal compliance with the antisegregation decisions of the Supreme Court.

(b) The Congress further finds that the rights protected by the Constitution, as declared by the antisegregation decisions, will be more widely accepted and more fully enjoyed in all areas of the Nation, and particularly in those areas of the Nation most directly affected by the decisions, when it is generally recognized and understood that—

(1) the Constitution, as declared by the antisegregation decisions, is the supreme law of the land,

(2) all Federal and State officials are bound by their oaths or affirmations to support the Constitution, and

(3) the legislative and executive branches of the Federal Government are acting and will continue to act, with such Federal authority as is found necessary, to protect the constitutional rights upheld by those decisions of the judicial branch of the Government.

(c) The Congress further finds that—

(1) the present system whereby individual plaintiffs in the Federal courts bear the burden of protecting constitutional rights, as declared by the antisegregation decisions, is neither the exclusive nor the most effective means of protecting those constitutional rights and the public interest in safeguarding those constitutional rights, and has resulted in local restrictive and punitive measures against the individuals and organizations engaging in, and supporting, efforts in the courts to assert those constitutional rights, and

(2) specific authorization to the executive branch of the Federal Government to act in support of the constitutional rights upheld by the antisegregation decisions (A) will provide a more rational, uniform, just, and effective system of protecting constitutional rights than the present procedure which the safeguarding of constitutional rights is determined by the varying resources and courage of individuals and organizations and by the varying State statutory restrictions placed upon them, and (B) will render less effective, and hence tend to reduce, hostile community pressures upon individuals and organizations seeking to safeguard constitutional rights.

(d) The Congress hereby recognizes it to be the initial responsibility of all States, municipalities, school districts, and other local governmental units to safeguard the constitutional right to the equal protection of the laws as declared by the antisegregation decisions of the Supreme Court and to administer their systems of public education, public transportation, and public recreational facilities in accordance with the Constitution of the United States, but the Federal Government, to maintain a more perfect union, to extend justice, to promote the common defense, and to secure the blessings of liberty to all persons, has a coordinate responsibility to guarantee the constitutional right to the equal protection of the laws, to prevent denials of the right when State or local authorities cannot or will not do so, and thus to enhance the Nation's internal strength and its position throughout the world.

(e) Recognizing its authority and responsibility under the fifth section of the 14th amendment to the Constitution of the United States and its obligation to uphold the coordinate authority and responsibility of the judicial branch of the Government, the Congress hereby declares its intention that the right to the equal protection of the laws guaranteed by the Constitution against deprivation by reason of race, color, religion, or national origin and affirmed by the antisegregation decisions of the Supreme Court, shall be protected by all due and reasonable means, and to that end enacts the following provisions of this Act.

TITLE II

TECHNICAL ASSISTANCE BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE

SEC. 201. The Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the "Secretary") is hereby authorized to render technical assistance to States, municipalities, schools districts, and other local governmental units to eliminate denials of constitutional rights in the field of public education by reason of race, color, religion, or national origin and to come into compliance with the decisions of the Supreme Court in the field of public education by—

(a) assembling, publishing, and distributing information which, in his judgment, will prove helpful in obtaining public understanding of, and compliance with, the Constitution and decisions of the Supreme Court in the field of public education;

(b) surveying the progress made in eliminating segregation in public education in various parts of the country and making available to public agencies, private organizations, private individuals, and the general public the results of such surveys, including wherever possible successful case histories of desegregation and the ways and means utilized to bring about desegregation in such instances;

(c) planning, calling, and holding local, State, regional, and national conferences attended by State and local officials, representatives of private organizations, and private citizens, to discuss ways and means of eliminating segregation in public education generally or in any particular State, municipality, school district, or other local governmental unit;

(d) appointing local, State, regional, and national advisory councils to assist the Secretary in carrying out his duties under this Act and to offer their assistance to any State, municipality, school district, or other local governmental unit to come into compliance with the Constitution and the decisions of the Supreme Court in the field of public education;

(e) reporting to the Congress, at least semiannually, concerning the progress being made in eliminating segregation in public education in various parts of the country; and

(f) assisting, by such other related means as he deems appropriate, States municipalities, school districts, and other local governmental units to eliminate segregation in public education.

SEC. 202. The Secretary shall recruit, employ, and train specialists in preparing, putting into effect, and carrying out plans for eliminating segregation in public education and shall offer the services of the specialists to States, municipalities, school districts, and other local governmental units. Upon request of any State, municipality, school district, or other local governmental unit, the Secretary shall make available to the requesting governmental unit the services of one or more specialists for such periods of time and in such numbers as the Secretary deems necessary and appropriate in the light of the particular needs of the requesting governmental unit.

SEC. 203. (a) The Secretary is authorized to reimburse any State or local official, representative of a private organization, or private citizen who is invited by him to attend any local, State, regional, or national conference held under the authority of section 201(c), and any member of an advisory council appointed under the authority of section 201(d) who is carrying out authorized functions, for travel expenses incurred, and to pay to any such persons per diem in lieu of subsistence, in the same amounts as authorized by law (5 U.S.C. 73b-2) for persons in the Government service serving without compensation.

(b) The Secretary is authorized to reimburse any State or local official who, with the approval of the Secretary, is invited to confer with one or more specialists employed by the Secretary under section 202 for travel expenses incurred in attending such conference, and to pay to any such official per diem in lieu of subsistence, in the same amounts as authorized by law (5 U.S.C. 73b-2) for persons in the Government service serving without compensation.

SEC. 204. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1958, and for each of the four succeeding fiscal years, such amounts not to exceed \$2,500,000 in any fiscal year as may be necessary for carrying out the purposes of this title.

TITLE III

GRANTS TO AREAS WHERE DESEGREGATION IN PUBLIC EDUCATION IS BEING CARRIED OUT

SEC. 301. (a) The Secretary is authorized to make grants to States, municipalities, school districts, and other local governmental units which maintained racial segregation in their public schools on May 17, 1954, and which make application for such grants, to assist in meeting the costs of additional educational measures undertaken or to be undertaken to further the process of eliminating segregation in the public schools of the applicant State, municipality, school district, or local governmental unit, while at the same time assuring that existing educational standards will not be lowered.

(b) Grants may be made under this section for—

(1) the cost of employing additional schoolteachers.

(2) the cost of giving to teachers and other school personnel in-service training in dealing with problems incident to desegregation,

(3) the cost of employing specialists in problems incident to desegregation and of providing other assistance to develop understanding by parents, schoolchildren, and the general public of plans and efforts for eliminating segregation in the schools in order to reduce the possibility of community hostility or unlawful resistance to such plans and efforts, and

(4) other costs directly related to the process of eliminating segregation in public schools, including the replacement of State payments to a school district or other political subdivision withdrawn because the applicant district or subdivision is eliminating, or is starting to eliminate, segregation.

(c) Grants may also be made under this section for the construction, enlargement, or alteration of school facilities when the Secretary finds that lack or inadequacy of existing facilities makes the carrying out of any reasonable plan for desegregation without lowering existing educational standards impracticable or materially more difficult.

(d) Each application made for a grant under this section shall provide such detailed breakdown of the additional educational measures for which financial assistance is sought as the Secretary may by regulations prescribe.

(e) Each grant under this section shall be made in such amounts and on such terms and conditions as the Secretary shall prescribe, which may include a condition that the applicant expend funds in specified amounts for the purpose for which the grant is made. In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Secretary shall take into consideration—

(1) the amount available for grants under this section and the other applications which are pending before him,

(2) the financial condition of the applicant and the other resources available to it,

(3) the nature, extent, and gravity of its problems incident to desegregation,

(4) whether the additional educational measures undertaken or to be undertaken are reasonably and effectively designed to further the process of eliminating racial segregation, while at the same time assuring that existing educational standards will not be lowered, and

(5) such other factors as he finds relevant.

SEC. 302. The Secretary is further authorized to make grants to public or other nonprofit educational institutions of higher learning to meet or assist in meeting the cost of short-term training courses or institutes, not to exceed four weeks in duration, for personnel of public schools or of educational agencies engaged in or about to undertake desegregation, designed to enable such personnel to deal more effectively with problems incident to desegregation. Such grants may also be used by such institutions to establish and maintain fellowships for such training courses or institutes, covering tuition, fees, and such stipends and allowances (including travel and subsistence expenses) as may be determined by the Secretary.

SEC. 303. Payments of grants under sections 301 and 302 may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary may determine.

SEC. 304. (a) There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1958, and for each of the four succeeding fiscal years, such sums, not exceeding \$40,000,000 for any fiscal year, as may be necessary to carry out the provisions of this title.

(b) In making grants from funds appropriated for any fiscal year for the purposes specified in section 301(b), the Secretary may disregard applications received after August 31 in that fiscal year, or may subordinate such applications to applications received before that date. In the event that he receives, either before or after that date, applications which he considers would materially contribute to carrying out the purposes of this title, but which he cannot grant because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

(c) In the event that the Secretary receives applications for grants for the purpose specified in section 301(c) which he considers would materially contribute to carrying out the purposes of this title, but which he cannot grant because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

TITLE IV

ADMINISTRATIVE ACTION DIRECTED TOWARD ELIMINATING SEGREGATION IN PUBLIC EDUCATION

SEC. 401. The Secretary shall make every effort to persuade States, municipalities, school districts, and other local governmental units to make a start toward eliminating segregation in public education and to carry out in full such programs as they may start, and to this end he shall utilize the authority provided in titles II and III.

SEC. 402. Whenever the Secretary shall find that all efforts under titles II and III and under section 401 of this title have failed, and continue to fail, in bringing about a start toward the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit, the Secretary is authorized to prepare a tentative plan for the elimination of segregation in public education in such State, municipality, school district, or other local governmental unit. In preparing such a tentative plan, the Secretary shall seek the advice and assistance of public officials, private organizations, and private citizens in the area and of any local, State, regional, or national advisory council appointed pursuant to section 201(d) and he shall carefully consider such advice and assistance wherever available. Tentative plans prepared by the Secretary under the authority of this section shall take into account the need of the particular area for time to make an orderly adjustment and transition from segregated to desegregated schools.

SEC. 403. (a) Whenever the Secretary has prepared a tentative plan for the elimination of segregation in public education in any State, municipality, school district, or other local government unit, he shall forward the plan to the governor, mayor, or other appropriate official, as the case may be. If the State, municipality, school district, or other local governmental unit agrees to put into effect the tentative plan as proposed by the Secretary or as modified by the State, municipality, school district, or other local governmental unit with the consent of the Secretary, the Secretary shall utilize the authority granted in titles II and III to assist the State, municipality, school district, or other local governmental unit in putting into effect the tentative plan.

(b) If the State, municipality, school district, or other local governmental unit (1) does not agree to put into effect the tentative plan as proposed by the Secretary or as modified with his consent, or (2) after agreeing to the tentative plan as so proposed or modified, does not, in the judgment of the Secretary, carry out such tentative plan, the Secretary shall hold a public hearing upon the tentative plan. Notice of such hearing shall be given to the local authorities concerned by registered mail and notice shall be given to private organizations and private citizens within the area by publication in one or more newspapers. Local authorities, private organizations, and private citizens shall be permitted

to participate in the hearing and present evidence and argument in favor of the tentative plan, in favor of amendments to the tentative plan, or in opposition to the plan or to any plan, but cumulative evidence may be excluded in the discretion of the Secretary. Anyone shall be permitted to file a written statement with the Secretary in addition to, or in lieu of, personal appearance at the public hearing.

(c) After the hearing provided in subsection (b) has been concluded, the Secretary shall prepare and issue an approved plan for eliminating segregation in public education in the State, municipality, school district, or other local governmental unit. He shall publish the approved plan in the Federal Register and in one or more newspapers in the area affected thereby and shall transmit a certified copy thereof to the appropriate official of the State, municipality, school district, or other local governmental unit involved.

(d) In order that the proceedings under this title shall expedite the elimination of segregation in any State, municipality, school district, or other local governmental unit, the Secretary shall handle all proceedings under this title as expeditiously as possible. The Secretary shall complete any proceedings hereunder within one year from the time that a tentative plan is forwarded to the governor, mayor, or other appropriate official under section 403(a), or, in case a State, municipality, school district, or other local governmental unit agrees to a tentative plan but does not carry it out, within six months from the time that the Secretary determines that such State, municipality, school district, or other local governmental unit is not carrying out such tentative plan.

SEC. 404. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1958, and for each of the four succeeding fiscal years, such amounts as may be necessary for carrying out the purposes of this title.

SEC. 405. The Secretary is authorized to carry out his responsibilities and exercise his authority under this title and under titles II and III through designated personnel in his own office or through any existing bureau, division, or agency of the Department of Health, Education, and Welfare or through a new office created by him for the special purpose of exercising the Secretary's responsibilities hereunder, except that the Secretary shall personally review and sign any approved plan issued under section 403 (c).

TITLE IV

AUTHORIZATION TO THE ATTORNEY GENERAL IN THE FIELD OF PUBLIC EDUCATION

SEC. 501. (a) Whenever (1) the Secretary has published in the Federal Register an approved plan for the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit pursuant to section 403(c), (2) the State, municipality, school district, or other local governmental unit has rejected the plan or has refused or failed to act in accordance therewith, and (3) the Secretary has certified to the Attorney General that all efforts to secure compliance with the Constitution and the Supreme Court's decisions by conciliation, persuasion, education, and assistance under titles II, III, and IV have failed, the Attorney General of the United States is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against the appropriate officials of the State, municipality, school district, or other local governmental unit and any individual or individuals acting in concert with such officials to enforce compliance with the approved plan.

(b) The Attorney General is authorized to move to dismiss or discontinue any action brought under subsection (a), or to propose or to agree to a decree adopting a plan for elimination of segregation in public education which is different from the approved plan, whenever he determines that the State, municipality, school district, or other local governmental unit is making, or is prepared to make, a prompt and reasonable start toward full compliance with the Constitution and the Supreme Court's decisions in the field of education and to work toward full compliance with all deliberate speed.

(c) Any interested party may, with the leave of the court, intervene in any action brought under subsection (a), and the court shall consider any proposals by the intervenors, as well as by the defendant or defendants, in determining its final decree.

TITLE VI

OTHER AUTHORIZATIONS TO THE ATTORNEY GENERAL

SEC. 601. (a) Whenever the Attorney General receives a signed complaint that any person or group of persons is being deprived of, or is being threatened with the loss of, the right to the equal protection of the laws by reason of race, color, religion, or national origin and whenever the Attorney General certifies that, in his judgment, such person or group of persons is unable for any reason to seek effective legal protection for the right to the equal protection of the laws, the Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or territory or subdivision or instrumentality thereof, deprives or threatens to deprive such person or group of persons of the right to equal protection of the laws by reason of race, color, religion, or national origin and against any individual or individuals acting in concert with them.

(b) A person or group of persons shall be deemed unable to seek effective legal protection for the right to the equal protection of the laws within the meaning of subsection (a) not only when such person or group of persons is financially unable to bear the expenses of the litigation, but also when there is reason to believe that the institution of such litigation would jeopardize the employment or other economic activity of, or might result in physical harm of economic damage to, such person or group of persons or their families.

(c) Nothing contained in titles IV and V shall limit the authority of the Attorney General to institute and maintain an action under subsection (a).

SEC. 602. The Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for injunction or other order, (1) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder, any Federal, State, or local official from according any person or group of persons the right to the equal protection of the laws without regard to race, color, religion, or national origin, or (2) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder the execution of any court order protecting the right to the equal protection of the laws without regard to race, color, religion, or national origin.

SEC. 603. The Attorney General is authorized, upon receipt of a signed complaint, to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or subdivision or instrumentality thereof, deprives or threatens to deprive any person or group of persons or association of persons of any right guaranteed by the fourteenth amendment of the Constitution because such person or group of persons or association of persons has opposed or opposes the denial of the equal protection of the laws to others because of race, color, religion, or national origin.

SEC. 604. Whenever a suit is brought in any district court of the United States seeking relief from the deprivation of the right of equal protection of the laws because of race, color, religion, or national origin, the Attorney General is authorized to intervene in such action with all the rights of a party thereto and to seek compliance with any lawful order issued by such district court.

TITLE VII

MISCELLANEOUS PROVISIONS

SEC. 701. The district courts of the United States shall have jurisdiction of proceedings instituted under sections 501, 601, 602, and 603 of this Act and shall exercise the same without regard to whether any administrative or other remedies that may be provided by law shall have been exhausted and, in the case of proceedings instituted under sections 601 and 602, without regard to whether any administrative proceeding is pending or contemplated under title IV, it being the purpose of title IV to expedite not delay the elimination of segregation in public education throughout the Nation. In any proceeding hereunder, the United States shall be liable for costs the same as a private person.

Sec. 702. Nothing in this Act or in any administrative proceeding hereunder shall be construed to impair any right guaranteed by the Constitution or laws of the United States or any remedies already existing for their protection or enforcement, nor to prevent any private individual or organization from acting to enforce or safeguard any constitutional right in any manner now permitted by law.

Sec. 703. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

[H.R. 3148, 86th Cong., 1st sess.]

A BILL To insure the equal protection of the laws to all persons regardless of race, color, religion, or national origin

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the Attorney General of the United States shall determine that any person or group of persons are being deprived of, or are being threatened with loss of, their right to the equal protection of the laws by reason of their race, color, religion, or national origin, and that such person or group of persons are unable for any reason to vindicate or to protect their right to the equal protection of the laws, the Attorney General is authorized to institute for or in the name of the United States, a civil action or other proceeding for preventive relief, including an application for injunction or other order, against any person or persons who, under color of any statute, ordinance, regulations, custom, or usage, of any State or Territory or subdivision or instrumentality thereof, deprives or threatens to deprive any person or group of persons of their rights to the equal protection of the laws by reason of their race, color, religion, or national origin.

Sec. 2. The Attorney General is hereby authorized, upon written request to the duly constituted authorities of any State or Territory or subdivision or instrumentality thereof, to institute for or in the name of the United States, a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any person or persons preventing or hindering or threatening to prevent or hinder such duly constituted authorities from giving or securing to any person or group of persons their right to the equal protection of the laws.

Sec. 3. The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to sections 1 and 2 of this Act and shall exercise the same without regard to whether any administrative or other remedies that may be provided by the law shall have been exhausted. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

Sec. 4. Nothing in this Act shall be construed as impairing any rights secured by the Constitution and laws of the United States, or any remedies already existing for their protection and enforcement.

[H.R. 3212, 86th Cong., 1st sess.]

A BILL To effectuate and enforce the constitutional right to the equal protection of the laws, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,

TITLE I

SHORT TITLE AND FINDINGS

Sec. 101. This Act may be cited as the "Civil Rights Act of 1959."

Sec. 102. (a) The Congress hereby finds that—

(1) recent decisions of the Supreme Court of the United States holding racial segregation unlawful in public education, public transportation, and public recreational facilities (hereinafter referred to as the antisegregation decisions) as a denial of the constitutional right to the equal protection of

the laws express the moral ideals of the Nation and the world and point the way to a nation enhanced in strength and dignity at home and enhanced in honor and prestige throughout the world,

(2) these antisegregation decisions are being resisted in many areas of the Nation mostly directly affected by them and indirectly evaded in other areas, thereby denying to millions of Americans within our borders the constitutional right to the equal protection of the laws,

(3) many States, municipalities, school districts, and other local governmental units have failed to make a prompt and reasonable start toward full compliance with the Supreme Court's decisions in the field of public education despite the substantial time which has already elapsed since the promulgation of those decisions in 1954 and 1955,

(4) the constitutional right to the equal protection of the laws is being denied to many persons because of race, color, religion, or national origin in fields other than education, transportation, and recreation,

(5) these denials of the constitutional right to the equal protection of the laws restrict millions of Americans to second-class citizenship and deprive the Nation of the maximum development and maximum benefits that can be contributed by such persons, and

(6) legislative and executive action (A) is necessary to safeguard and guarantee to all Americans the constitutional right to equal protection of the laws and (B) will aid in expediting universal compliance with the anti-segregation decisions of the Supreme Court.

(b) The Congress further finds that the rights protected by the Constitution, as declared by the antisegregation decisions, will be more widely accepted and more fully enjoyed in all areas of the Nation, and particularly in those areas of the Nation most directly affected by the decisions, when it is generally recognized and understood that—

(1) the Constitution, as declared by the antisegregation decisions, is the supreme law of the land,

(2) all Federal and State officials are bound by their oaths or affirmations to support the Constitution, and

(3) the legislative and executive branches of the Federal Government are acting and will continue to act, with such Federal authority as is found necessary, to protect the constitutional rights upheld by those decisions of the judicial branch of the Government.

(c) The Congress further finds that—

(1) the present system whereby individual plaintiffs in the Federal courts bear the burden of protecting constitutional rights, as declared by the anti-segregation decisions, is neither the exclusive nor the most effective means of protecting those constitutional rights and the public interest in safeguarding those constitutional rights, and has resulted in local restrictive and punitive measures against the individuals and organizations engaging in, and supporting, efforts in the courts to assert those constitutional rights, and

(2) specific authorization to the executive branch of the Federal Government to act in support of the constitutional rights upheld by the anti-segregation decisions (A) will provide a more rational, uniform, just, and effective system of protecting constitutional rights than the present procedure under which the safeguarding of constitutional rights is determined by the varying resources and courage of individuals and organizations and by the varying State statutory restrictions placed upon them, and (B) will render less effective, and hence tend to reduce, hostile community pressures upon individuals and organizations seeking to safeguard constitutional rights.

(d) The Congress hereby recognizes it to be the initial responsibility of all States, municipalities, school districts, and other local governmental units to safeguard the constitutional right to the equal protection of the laws as declared by the antisegregation decisions of the Supreme Court and to administer their systems of public education, public transportation, and public recreational facilities in accordance with the Constitution of the United States, but the Federal Government, to maintain a more perfect union, to extend justice, to promote the common defense, and to secure the blessings of liberty to all persons, has a coordinate responsibility to guarantee the constitutional right to the equal protection of the laws, to prevent denials of the right when State or local authorities cannot or will not do so, and thus to enhance the Nation's internal strength and its position throughout the world.

(e) Recognizing its authority and responsibility under the fifth section of the fourteenth amendment to the Constitution of the United States and its obliga-

tion to uphold the coordinate authority and responsibility of the judicial branch of the Government, the Congress hereby declares its intention that the right to the equal protection of the laws guaranteed by the Constitution against deprivation by reason of race, color, religion, or national origin and affirmed by the antisegregation decisions of the Supreme Court, shall be protected by all due and reasonable means, and to that end enacts the following provisions of this Act.

TITLE II

TECHNICAL ASSISTANCE BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE

SEC. 201. The Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the "Secretary") is hereby authorized to render technical assistance to States, municipalities, school districts, and other local governmental units to eliminate denials of constitutional rights in the field of public education by reason of race, color, religion, or national origin and to come into compliance with the decisions of the Supreme Court in the field of public education by—

(a) assembling, publishing, and distributing information which, in his judgment, will prove helpful in obtaining public understanding of, and compliance with, the Constitution and decisions of the Supreme Court in the field of public education;

(b) surveying the progress made in eliminating segregation in public education in various parts of the country and making available to public agencies, private organizations, private individuals, and the general public the results of such surveys, including wherever possible successful case histories of desegregation and the ways and means utilized to bring about desegregation in such instances;

(c) planning, calling, and holding local, State, regional, and national conferences attended by State and local officials, representatives of private organizations, and private citizens, to discuss ways and means of eliminating segregation in public education generally or in any particular State, municipality, school district, or other local governmental unit;

(d) appointing local, State, regional, and national advisory councils to assist the Secretary in carrying out his duties under this Act and to offer their assistance to any State, municipality, school district, or other local governmental unit to come into compliance with the Constitution and the decisions of the Supreme Court in the field of public education;

(e) reporting to the Congress, at least semiannually, concerning the progress being made in eliminating segregation in public education in various parts of the country; and

(f) assisting, by such other related means as he deems appropriate, States, municipalities, school districts, and other local governmental units to eliminate segregation in public education.

SEC. 202. The Secretary shall recruit, employ, and train specialists in preparing, putting into effect, and carrying out plans for eliminating segregation in public education and shall offer the services of the specialists to States, municipalities, school districts, and other local governmental units. Upon request of any State, municipality, school district, or other local governmental unit, the Secretary shall make available to the requesting governmental unit the services of one or more specialists for such periods of time and in such numbers as the Secretary deems necessary and appropriate in the light of the particular needs of the requesting governmental unit.

SEC. 203. (a) The Secretary is authorized to reimburse any State or local official, representative of a private organization, or private citizen who is invited by him to attend any local, State, regional, or national conference held under the authority of section 201(c), and any member of an advisory council appointed under the authority of section 201(d) who is carrying out authorized functions, for travel expenses incurred, and to pay to any such persons per diem in lieu of subsistence, in the same amounts as authorized by law (5 U.S.C. 73b-2) for persons in the Government service serving without compensation.

(b) The Secretary is authorized to reimburse any State or local official who, with the approval of the Secretary, is invited to confer with one or more specialists employed by the Secretary under section 202 for travel expenses incurred in attending such conference, and to pay to any such official per diem in lieu of subsistence, in the same amounts as authorized by law (5 U.S.C. 73b-2) for persons in the Government service serving without compensation.

SEC. 204. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1958, and for each of the four succeeding fiscal years, such

amounts not to exceed \$2,500,000 in any fiscal year as may be necessary for carrying out the purposes of this title.

TITLE III

GRANTS TO AREAS WHERE DESEGREGATION IN PUBLIC EDUCATION IS BEING CARRIED OUT

SEC. 301. (a) The Secretary is authorized to make grants to States, municipalities, school districts, and other local governmental units which maintained racial segregation in their public schools on May 17, 1954, and which make application for such grants, to assist in meeting the costs of additional educational measures undertaken or to be undertaken to further the process of eliminating segregation in the public schools of the applicant State, municipality, school district, or local governmental unit, while at the same time assuring that existing educational standards will not be lowered.

(b) Grants may be made under this section for—

- (1) the cost of employing additional schoolteachers,
- (2) the cost of giving to teachers and other school personnel in-service training in dealing with problems incident to desegregation,
- (3) the cost of employing specialists in problems incident to desegregation and of providing other assistance to develop understanding by parents, schoolchildren, and the general public of plans and efforts for eliminating segregation in the schools in order to reduce the possibility of community hostility or unlawful resistance to such plans and efforts, and
- (4) other costs directly related to the process of eliminating segregation in public schools, including the replacement of State payments to a school district or other political subdivision withdrawn because the applicant district or subdivision is eliminating, or is starting to eliminate, segregation.

(c) Grants may also be made under this section for the construction, enlargement, or alteration of school facilities when the Secretary finds that lack or inadequacy of existing facilities makes the carrying out of any reasonable plan for desegregation without lowering existing educational standards impracticable or materially more difficult.

(d) Each application made for a grant under this section shall provide such detailed breakdown of the additional educational measures for which financial assistance is sought as the Secretary may by regulations prescribe.

(e) Each grant under this section shall be made in such amounts and on such terms and conditions as the Secretary shall prescribe, which may include a condition that the applicant expend funds in specified amounts for the purpose for which the grant is made. In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Secretary shall take into consideration—

- (1) the amount available for grants under this section and the other applications which are pending before him,
- (2) the financial condition of the applicant and the other resources available to it,
- (3) the nature, extent, and gravity of its problems incident to desegregation,
- (4) whether the additional educational measures undertaken or to be undertaken are reasonably and effectively designed to further the process of eliminating racial segregation, while at the same time assuring that existing educational standards will not be lowered, and
- (5) such other factors as he finds relevant.

SEC. 302. The Secretary is further authorized to make grants to public or other nonprofit educational institutions of higher learning to meet or assist in meeting the cost of short-term training courses or institutes, not to exceed four weeks in duration, for personnel of public schools or of educational agencies engaged in or about to undertake desegregation, designed to enable such personnel to deal more effectively with problems incident to desegregation. Such grants may also be used by such institutions to establish and maintain fellowships for such training courses or institutes, covering tuition, fees, and such stipends and allowances (including travel and subsistence expenses) as may be determined by the Secretary.

SEC. 303. Payments of grants under sections 301 and 302 may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary may determine.

SEC. 304. (a) There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1958, and for each of the four succeeding fiscal years, such sums, not exceeding \$40,000,000 for any fiscal year, as may be necessary to carry out the provisions of this title.

(b) In making grants from funds appropriated for any fiscal year for the purposes specified in section 301(b), the Secretary may disregard applications received after August 31 in that fiscal year, or may subordinate such applications to applications received before that date. In the event that he receives, either before or after that date, applications which he considers would materially contribute to carrying out the purposes of this title, but which he cannot grant because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

(c) In the event that the Secretary receives applications for grants for the purpose specified in section 301(c) which he considers would materially contribute to carrying out the purposes of this title, but which he cannot grant because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

TITLE IV

ADMINISTRATIVE ACTION DIRECTED TOWARD ELIMINATING SEGREGATION IN PUBLIC EDUCATION

SEC. 401. The Secretary shall make every effort to persuade States, municipalities, school districts, and other local governmental units to make a start toward eliminating segregation in public education and to carry out in full such programs as they may start, and to this end he shall utilize the authority provided in titles II and III.

SEC. 402. Whenever the Secretary shall find that all efforts under titles II and III and under section 401 of this title have failed, and continue to fail, in bringing about a start toward the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit, the Secretary is authorized to prepare a tentative plan for the elimination of segregation in public education in such State, municipality, school district, or other local governmental unit. In preparing such a tentative plan, the Secretary shall seek the advice and assistance of public officials, private organizations, and private citizens in the area and of any local, State, regional, or national advisory council appointed pursuant to section 201(d) and he shall carefully consider such advice and assistance wherever available. Tentative plans prepared by the Secretary under the authority of this section shall take into account the need of the particular area for time to make an orderly adjustment and transition from segregated to desegregated schools.

SEC. 403. (a) Whenever the Secretary has prepared a tentative plan for the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit, he shall forward the plan to the governor, mayor, or other appropriate official, as the case may be. If the State, municipality, school district, or other local governmental unit agrees to put into effect the tentative plan as proposed by the Secretary or as modified by the State, municipality, school district, or other local governmental unit with the consent of the Secretary, the Secretary shall utilize the authority granted in titles II and III to assist the State, municipality, school district, or other local governmental unit in putting into effect the tentative plan.

(b) If the State, municipality, school district, or other local governmental unit (1) does not agree to put into effect the tentative plan as proposed by the Secretary or as modified with his consent, or (2) after agreeing to the tentative plan as so proposed or modified, does not, in the judgment of the Secretary, carry out such tentative plan, the Secretary shall hold a public hearing upon the tentative plan. Notice of such hearing shall be given to the local authorities concerned by registered mail and notice shall be given to private organizations and private citizens within the area by publication in one or more newspapers. Local authorities, private organizations, and private citizens shall be permitted to participate in the hearing and present evidence and argument in favor of the tentative plan, in favor of amendments to the tentative plan, or in opposition to the plan or to any plan, but cumulative evidence may be excluded in the discretion of the Secretary. Anyone shall be permitted to file a written statement

with the Secretary in addition to, or in lieu of, personal appearance at the public hearing.

(c) After the hearing provided in subsection (b) has been concluded, the Secretary shall prepare and issue an approved plan for eliminating segregation in public education in the State, municipality, school district, or other local governmental unit. He shall publish the approved plan in the Federal Register and in one or more newspapers in the area affected thereby and shall transmit a certified copy thereof to the appropriate official of the State, municipality, school district, or other local governmental unit involved.

(d) In order that the proceedings under this title shall expedite the elimination of segregation in any State, municipality, school district, or other local governmental unit, the Secretary shall handle all proceedings under this title as expeditiously as possible. The Secretary shall complete any proceedings hereunder within one year from the time that a tentative plan is forwarded to the governor, mayor, or other appropriate official under section 403(a), or, in case a State, municipality, school district, or other local governmental unit agrees to a tentative plan but does not carry it out, within six months from the time that the Secretary determines that such State, municipality, school district, or other local governmental unit is not carrying out such tentative plan.

Sec. 404. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1958, and for each of the four succeeding fiscal years, such amounts as may be necessary for carrying out the purposes of this title.

Sec. 405. The Secretary is authorized to carry out his responsibilities and exercise his authority under this title and under titles II and III through designated personnel in his own office or through any existing bureau, division, or agency of the Department of Health, Education, and Welfare or through a new office created by him for the special purpose of exercising the Secretary's responsibilities hereunder, except that the Secretary shall personally review and sign any approved plan issued under section 403(c).

TITLE V

AUTHORIZATION TO THE ATTORNEY GENERAL IN THE FIELD OF PUBLIC EDUCATION

Sec. 501. (a) Whenever (1) the Secretary has published in the Federal Register an approved plan for the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit pursuant to section 403(c), (2) the State, municipality, school district, or other local governmental unit has rejected the plan or has refused or failed to act in accordance therewith, and (3) the Secretary has certified to the Attorney General that all efforts to secure compliance with the Constitution and the Supreme Court's decisions by conciliation, persuasion, education, and assistance under titles II, III, and IV have failed, the Attorney General of the United States is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against the appropriate officials of the State, municipality, school district, or other local governmental unit and any individual or individuals acting in concert with such officials to enforce compliance with the approved plan.

(b) The Attorney General is authorized to move to dismiss or discontinue any action brought under subsection (a), or to propose or to agree to a decree adopting a plan for elimination of segregation in public education which is different from the approved plan, whenever he determines that the State, municipality, school district, or other local governmental unit is making, or is prepared to make, a prompt and reasonable start toward full compliance with the Constitution and the Supreme Court's decisions in the field of education and to work toward full compliance with all deliberate speed.

(c) Any interested party may, with the leave of the court, intervene in any action brought under subsection (a), and the court shall consider any proposals by the intervenors, as well as by the defendant or defendants, in determining its final decree.

TITLE VI

OTHER AUTHORIZATIONS TO THE ATTORNEY GENERAL

Sec. 601. (a) Whenever the Attorney General receives a signed complaint that any person or group of persons is being deprived of, or is being threatened with the loss of, the right to the equal protection of the laws by reason of race, color, religion, or national origin and whenever the Attorney General certifies that, in

his judgment, such person or group of persons is unable for any reason to seek effective legal protection for the right to the equal protection of the laws, the Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or subdivision or instrumentality thereof, deprives or threatens to deprive such person or group of persons of the right to equal protection of the laws by reason of race, color, religion, or national origin and against any individual or individuals acting in concert with them.

(b) A person or group of persons shall be deemed unable to seek effective legal protection for the right to the equal protection of the laws within the meaning of subsection (a) not only when such person or group of persons is financially unable to bear the expenses of the litigation, but also when there is reason to believe that the institution of such litigation would jeopardize the employment or other economic activity of, or might result in physical harm or economic damage to, such person or group of persons or their families.

(c) Nothing contained in titles IV and V shall limit the authority of the Attorney General to institute and maintain an action under subsection (a).

SEC. 602. The Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for injunction or other order, (1) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder the execution of any court order protecting the right to the equal protection of the laws without regard to race, color, religion, or national origin, or (2) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder the execution of any court order protecting the right to the equal protection of the laws without regard to race, color, religion or national origin.

SEC. 603. The Attorney General is authorized, upon receipt of a signed complaint, to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or subdivision or instrumentality thereof, deprives or threatens to deprive any person or group of persons or association of persons of any right guaranteed by the fourteenth amendment of the Constitution because such persons or group of persons or association of persons has opposed or opposes the denial of the equal protection of the laws to others because of race, color, religion, or national origin.

SEC. 604. Whenever a suit is brought in any district court of the United States seeking relief from the deprivation of the right of equal protection of the laws because of race, color, religion, or national origin, the Attorney General is authorized to intervene in such action with all the rights of a party thereto and to seek compliance with any lawful order issued by such district court.

TITLE VII

MISCELLANEOUS PROVISIONS

SEC. 701. The district courts of the United States shall have jurisdiction of proceedings instituted under sections 501, 601, 602, and 603 of this Act and shall exercise the same without regard to whether any administrative or other remedies that may be provided by law shall have been exhausted and, in the case of proceedings instituted under sections 601 and 602, without regard to whether any administrative proceeding is pending or contemplated under title IV, it being the purpose of title IV to expedite not delay the elimination of segregation in public education throughout the Nation. In any proceeding hereunder, the United States shall be liable for costs the same as a private person.

SEC. 702. Nothing in this Act or in any administrative proceeding hereunder shall be construed to impair any right guaranteed by the Constitution or laws of the United States or any remedies already existing for their protection or enforcement, nor to prevent any private individual or organization from acting to enforce or safeguard any constitutional right in any manner now permitted by law.

SEC. 703. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act, or the

application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

[H.R. 3659, 86th Cong., 1st sess.]

A BILL To amend the Civil Rights Act of 1957 to provide that the Civil Rights Commission shall have until January 2, 1961, to submit its report, findings, and recommendations

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 104(b) of the Civil Rights Act of 1957 is amended by striking out "two years from the date of enactment of this Act," and inserting in lieu thereof "January 2, 1961."

[H.R. 4169, 86th Cong., 1st sess.]

A BILL To establish a commission to be known as the "Commission on Equal Job Opportunity Under Government Contracts"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby created a Commission to be known as the "Commission on Equal Job Opportunity Under Government Contracts", hereinafter referred to as the Commission.

SEC. 2. (a) The Commission shall consist of fifteen members appointed by and serving at the pleasure of the President. The Chairman and Vice Chairman shall be designated by the President.

(b) Members of the Commission who are officers or employees of the United States shall serve the Commission without additional compensation. Members of the Commission who are not officers or employees of the United States shall each receive \$50 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other expenses incurred by them in the performance of such duties.

(c) Service of an individual as a member of the Commission shall not be considered to be service or employment bringing such individual within the provisions of sections 281, 283, 284, 434, or 1914 of title 18 of the United States Code, or section 190 of the Revised Statutes (5 U.S.C. 99).

SEC. 3. (a) The Commission shall make investigations, studies, and surveys, and shall conduct such hearings, as may be necessary or appropriate in the discharge of its duties under this Act.

(b) To implement the policy of the United States Government to eliminate discrimination because of race, creed, color, or national origin in the employment of persons in the performance of contracts or subcontracts to provide the Government with goods or services, the Commission shall make recommendations to the President and to Government contracting agencies with respect to the preparation, revision, execution, and enforcement of contract provisions relating to such nondiscrimination in employment.

(c) The Government agencies contracting for goods or services to be furnished the Government shall perform such duties as may be requested of them by the President to cooperate with the Commission.

(d) The Commission shall also encourage, by the development and distribution of pertinent information and by other appropriate means, the furtherance of educational programs by employer, labor, civic, educational, religious, and other nongovernmental groups in order to eliminate discrimination in employment.

(e) The Commission is authorized to establish and maintain cooperative relationships with agencies of State and local governments, as well as with nongovernmental bodies, to assist in achieving the purposes of this Act.

SEC. 4. The Commission may employ such personnel as may be required for the effective performance of its duties.

SEC. 5. The Commission shall render to the President annual reports for transmission to the Congress.

SEC. 6. There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions of this Act.

[H.R. 4261, 86th Cong., 1st sess.]

A BILL To amend the Civil Rights Act of 1957 to make the Commission on Civil Rights a permanent agency of the United States, to broaden the duties of the Commission, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 101 of the Civil Rights Act of 1957 is amended by adding at the end thereof the following: "The term of office of each member of the Commission holding office before November 9, 1959, shall terminate on November 9, 1959; except that each such member shall continue to serve until his successor has been appointed. The term of office of each member of the Commission appointed to a term of office commencing after November 9, 1959, shall be four years; except that (1) the terms of office of three members of the Commission, first taking office after November 9, 1959, and designated for such purpose by the President, shall terminate on November 9, 1961; (2) any member of the Commission appointed to fill a vacancy occurring prior to the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (3) upon the expiration of his term of office a member shall continue to serve until his successor has been appointed."

(b) Subsection (a) of section 104 of the Civil Rights Act of 1957 is amended by redesignating paragraphs (2) and (3) thereof as paragraphs (3) and (4), respectively, and by inserting immediately after paragraph (1) thereof the following new paragraph:

"(2) investigate allegations (other than those referred to in paragraph (1)) in writing under oath or affirmation that certain citizens of the United States are being deprived of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States by reason of their color, race, religion, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;"

(c) Subsection (b) of such section 104 is amended by striking out "final and".

(d) Subsection (c) of such section 104 is amended to read as follows:

"(c) After November 9, 1959, the Commission shall, in addition to such interim reports as may be submitted pursuant to subsection (b), submit annually to the President and to the Congress a comprehensive report of its activities and findings for the year immediately preceding the date of each such report, including such recommendations as it may deem appropriate."

[H.R. 4338, 86th Cong., 1st sess.]

A BILL To provide for the retention and preservation of Federal election records and to authorize the Attorney General to compel the production of such records

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every officer of election shall retain and preserve, for a period of three years from the date of any general, special, or primary election at which candidates for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives are voted for, all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election except that, when required by law, such records and papers may be delivered to another officer of election and except that if a State designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

SEC. 2. Any person, whether or not an officer of election or custodian, who willfully steals, destroys, conceals, mutilates, or alters any record or paper required by section 1 to be retained and preserved shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

SEC. 3. Any record or paper required by section 1 to be retained and preserved shall, upon demand in writing by the Attorney General or his representative directed to the person having custody, possession, or control of such record or paper, be made available for inspection, reproduction, and copying by the Attorney General or his representative.

SEC. 4. Any record or paper demanded pursuant to section 3 shall be produced for inspection, reproduction, and copying at the principal office of the person upon whom such demand is made or at an office of the United States attorney in the district in which such records or papers are located.

SEC. 5. Unless otherwise ordered by a court of the United States, neither the Attorney General nor any employee of the Department of Justice, nor any other representative of the Attorney General, shall disclose any record or paper produced pursuant to this Act, or any reproduction or copy, except as is necessary in the performance of his official duties, including presentation of any case or proceeding before any court or grand jury.

SEC. 6. The United States district court for the district in which a demand is made pursuant to section 3, or in which a record or paper so demanded is located, shall have jurisdiction by appropriate process to compel the production of such record or paper.

SEC. 7. As used in this Act, the term "officer of election" means any person who, under color of any Federal, State, or local law, statute, ordinance, regulation, authority, custom, or usage, performs or is authorized to perform any function, duty, or task in connection with any application, registration, payment of poll tax, or other act requisite to voting in any general, special, or primary election at which candidates for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives are voted for.

[H.R. 4339, 86th Cong., 1st sess.]

A BILL To amend chapter 73 of title 18, United States Code, with respect to obstruction of court orders

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 73 of title 18, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 1509. Obstruction of certain court orders

"Whoever corruptly, or by threats or force, or by any threatening letter or communication, willfully prevents, obstructs, impedes, or interferes with or willfully endeavors to prevent, obstruct, impede, or interfere with the due exercise of rights or the performance of duties under any order, judgment, or decree of a court of the United States which (1) directs that any person or class of persons shall be admitted to any school, or (2) directs that any person or class of persons shall not be denied admission to any school because of race or color, or (3) approves any plan of any State or local agency the effect of which is or will be to permit any person or class of persons to be admitted to any school, shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

"No injunctive or other civil relief against the conduct made criminal by this section shall be denied on the ground that such conduct is a crime.

"This section shall not apply to an act of a student, officer, or employee of a school if such act is done pursuant to the direction of, or is subject to disciplinary action by, an officer of such school."

SEC. 2. The analysis of chapter 73 of such title is amended by adding at the end thereof the following:

"1509. Obstruction of certain court orders."

[H.R. 4342, 86th Cong., 1st sess.]

A BILL To amend the Civil Rights Act of 1957 to afford the Civil Rights Commission an additional two years within which to submit its final report, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 104(b) of the Civil Rights Act of 1957 (71 Stat. 635; 42 U.S.C., Supp. V 1975c(b)) is amended to read as follows:

(b) The Commission shall submit an interim report to the President and to

the Congress not later than September 1, 1959, and at such other times as either the Commission or the President shall deem desirable. It shall submit to the President and to the Congress a final and comprehensive report of its activities, findings, and recommendations not later than four years from the date of enactment of this Act.

[H.R. 4348, 86th Cong., 1st sess.]

A BILL To establish a Commission on Equal Job Opportunity Under Government Contracts

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby created a Commission to be known as the "Commission on Equal Job Opportunity Under Government Contracts", hereinafter referred to as the Commission.

SEC. 2. (a) The Commission shall consist of fifteen members appointed by and serving at the pleasure of the President. The Chairman and Vice Chairman shall be designated by the President.

(b) Members of the Commission who are officers or employees of the United States shall serve the Commission without additional compensation. Members of the Commission who are not officers or employees of the United States shall each received \$50 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other expenses incurred by them in the performance of such duties.

(c) Service of an individual as a member of the Commission shall not be considered to be service or employment bringing such individual within the provisions of section 281, 283, 284, 434, or 1914 of title 18 of the United States Code, or section 190 of the Revised Statutes (5 U.S.C. 99).

SEC. 3. (a) The Commission shall make investigations, studies, and surveys, and shall conduct such hearings, as may be necessary or appropriate in the discharge of its duties under this Act.

(b) To implement the policy of the United States Government to eliminate discrimination because of race, creed, color, or national origin in the employment of persons in the performance of contracts or subcontracts to provide the Government with goods or services the Commission shall make recommendations to the President and to Government contracting agencies with respect to the preparation, revision, execution, and enforcement of contract provisions relating to such nondiscrimination in employment.

(c) The Government agencies contracting for goods or services to be furnished the Government shall perform such duties as may be requested of them by the President to cooperate with the Commission.

(d) The Commission shall also encourage, by the development and distribution of pertinent information and by other appropriate means, the furtherance of educational programs by employer, labor, civic, educational, religious, and other nongovernmental groups in order to eliminate discrimination in employment.

(e) The Commission is authorized to establish and maintain cooperative relationships with agencies of State and local governments, as well as with nongovernmental bodies, to assist in achieving the purposes of this Act.

SEC. 4. The Commission may employ such personnel as may be required for the effective performance of its duties.

SEC. 5. The Commission shall render to the President annual reports for transmission to the Congress.

SEC. 6. There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions of this Act.

[H.R. 4457, 86th Cong., 1st sess.]

A BILL To further secure and protect the civil rights of all persons under the Constitution and laws of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1959".

TITLE I

OBSTRUCTION OF COURT ORDERS

Sec. 101. Chapter 73 of title 18, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 1509. Obstruction of certain court orders

"Whoever corruptly, or by threats or force, or by any threatening letter or communication, willfully prevents, obstructs, impedes or interferes with or willfully endeavors to prevent, obstruct, impede, or interfere with the due exercise of rights or the performance of duties under any order, judgment, or decree of a court of the United States which (1) directs that any person or class of persons shall be admitted to any school, or (2) directs that any person or class of persons shall not be denied admission to any school because of race or color, or (3) approves any plan of any State or local agency the effect of which is or will be to permit any person or class of persons to be admitted to any school, shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

"No injunctive or other civil relief against the conduct made criminal by this section shall be denied on the ground that such conduct is a crime.

"This section shall not apply to an act of a student, officer, or employee of a school if such act is done pursuant to the direction of, or is subject to disciplinary action by, an officer of such school."

Sec. 102. The analysis of chapter 73 of such title is amended by adding at the end thereof the following:

"1509. Obstruction of certain court orders."

TITLE II

FLIGHT TO AVOID PROSECUTION FOR DESTRUCTION OF EDUCATIONAL OR RELIGIOUS STRUCTURES

Sec. 201. Chapter 49 of title 18, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 1074. Flight to avoid prosecution for destruction of educational or religious structures.

"Whoever moves or travels in interstate or foreign commerce with intent either (1) to avoid prosecution, or custody, or confinement after conviction, under the laws of the place from which he flees, for willfully damaging or destroying or attempting to damage or destroy by fire or explosive any building, structure, facility or vehicle, if such building, structure, facility or vehicle is used primarily for religious purposes or for the purposes of public or private primary, secondary, or higher education, or (2) to avoid giving testimony in any criminal proceeding relating to any such offense shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

"Violations of this section may be prosecuted in the Federal judicial district in which the original crime was alleged to have been committed or in which the person was held in custody or confinement or in the Federal judicial district in which the person is apprehended."

Sec. 202. The analysis of chapter 49 of such title is amended by adding thereto the following:

"1074. Flight to avoid prosecution for destruction of educational or religious structures."

TITLE III

FEDERAL ELECTION RECORDS

Sec. 301 Every officer of election shall retain and preserve, for a period of three years from the date of any general, special, or primary election at which candidates for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives are voted for, all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election, except that, when required by law, such records and papers may be delivered to another officer of election and except that if a State designates a custodian to retain and preserve these records and papers at a specified place, then such

records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

SEC. 302. Any person, whether or not an officer of election or custodian, who willfully steals, destroys, conceals, mutilates, or alters any record or paper required by section 301 to be retained and preserved shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

SEC. 303. Any record or paper required by section 301 to be retained and preserved shall, upon demand in writing by the Attorney General or his representative directed to the person having custody, possession, or control of such record or paper, be made available for inspection, reproduction, and copying by the Attorney General or his representative.

SEC. 304. Any record or paper demanded pursuant to section 303 shall be produced for inspection, reproduction, and copying at the principal office of the person upon whom such demand is made or at an office of the United States attorney in the district in which such records or papers are located.

SEC. 305. Unless otherwise ordered by a court of the United States, neither the Attorney General nor any employee of the Department of Justice, nor any other representative of the Attorney General, shall disclose any record or paper produced pursuant to this title, or any reproduction or copy, except as is necessary in the performance of his official duties, including presentation of any case or proceeding before any court or grand jury.

SEC. 306. The United States district court for the district in which a demand is made pursuant to section 303, or in which a record or paper so demanded is located, shall have jurisdiction by appropriate process to compel the production of such record or paper.

SEC. 307. As used in this title, the term "officer of election" means any person who, under color of any Federal, State, or local law, statute, ordinance, regulation, authority, custom, or usage, performs or is authorized to perform any function, duty, or task in connection with any application, registration, payment of poll tax, or other act requisite to voting in any general, special, or primary election at which candidates for the office of President, Vice President, presidential elector, Member of the Senate or Member of the House of Representatives are voted for.

TITLE IV

CIVIL RIGHTS COMMISSION EXTENDED FOR TWO YEARS

SEC. 401. Section 104(b) of the Civil Rights Act of 1957 (71 Stat. 635; 42 U.S.C., Supp. V 1975c(b)) is amended to read as follows:

"(b) The Commission shall submit an interim report to the President and to the Congress not later than September 1, 1959, and at such other times as either the Commission or the President shall deem desirable. It shall submit to the President and to the Congress a final and comprehensive report of its activities, findings, and recommendations not later than four years from the date of enactment of this Act."

TITLE V

COMMISSION ON EQUAL JOB OPPORTUNITY UNDER GOVERNMENT CONTRACTS

SEC. 501. There is hereby created a Commission to be known as the "Commission on Equal Job Opportunity Under Government Contracts", hereinafter referred to as the Commission.

SEC. 502. (a) The Commission shall consist of fifteen members appointed by and serving at the pleasure of the President. The Chairman and Vice Chairman shall be designated by the President.

(b) Members of the Commission who are officers or employees of the United States shall serve the Commission without additional compensation. Members of the Commission who are not officers or employees of the United States shall each receive \$50 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other expenses incurred by them in the performance of such duties.

(c) Service of an individual as a member of the Commission shall not be considered to be service or employment bringing such individual within the provisions of section 281, 283, 284, 434, or 1914 of title 18 of the United States Code, or section 190 of the Revised Statutes (5 U.S.C. 99).

SEC. 503. (a) The Commission shall make investigations, studies, and surveys, and shall conduct such hearings, as may be necessary or appropriate in the discharge of duties under this title.

(b) To implement the policy of the United States Government to eliminate discrimination because of race, creed, color, or national origin in the employment of persons in the performance of contracts or subcontracts to provide the Government with goods or services, the Commission shall make recommendations to the President and to Government contracting agencies with respect to the preparation, revision, execution, and enforcement of contract provisions relating to such nondiscrimination in employment.

(c) The Government agencies contracting for goods or services to be furnished the Government shall perform such duties as may be requested of them by the President to cooperate with the Commission.

(d) The Commission shall also encourage, by the development and distribution of pertinent information and by other appropriate means, the furtherance of educational programs by employer, labor, civic, educational, religious, and other nongovernmental groups in order to eliminate discrimination in employment.

(e) The Commission is authorized to establish and maintain cooperative relationships with agencies of State and local governments, as well as with nongovernmental bodies, to assist in achieving the purposes of this title.

SEC. 504. The Commission may employ such personnel as may be required for the effective performance of its duties.

SEC. 505. The Commission shall render to the President annual reports for transmission to the Congress.

SEC. 506. There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions of this title.

TITLE VI

EDUCATION OF CHILDREN OF MEMBERS OF ARMED FORCES

SEC. 601. (a) Subsection (a) of section 6 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), relating to arrangements for the provision of free public education for children residing on Federal property where local educational agencies are unable to provide such education, as amended by inserting after the first sentence the following new sentence: "Such arrangements to provide free public education may also be made for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgement of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children."

(b) (1) The first sentence of subsection (d) of such section 6 is amended by adding before the period at the end thereof: "or, in the case of children to whom the second sentence of subsection (a) applies, with the head of any Federal department or agency having jurisdiction over the parents of some or all of such children".

(2) The second sentence of such subsection (d) is amended by striking out "Arrangements" and inserting in lieu thereof "Except where the Commissioner makes arrangements pursuant to the second sentence of subsection (a), arrangements".

SEC. 602. (a) Section 6(b) (1) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), relating to applications for school construction projects with respect to which Federal aid is requested, is amended by striking out "and" at the end of clause (F), by striking out the period at the end of clause (G), and inserting in lieu thereof "; and ", and by adding after clause (G) the following new clause:

"(H) assurance that such agency will make the school facilities included in any such project, the application for which is approved after enactment of this clause, available to the Commissioner pursuant to section 10(b)."

(b) Section 10 of such Act, relating to arrangements for facilities for the provision of free public education for children residing on Federal property where local educational agencies are unable to provide such education, is amended by inserting after the first sentence the following new sentence: "Such arrange-

ments may also be made to provide, on a temporary basis, minimum school facilities for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children."

(c) Section 10 of such Act is further amended by inserting "(a)" after "Sec. 10.", and by adding at the end thereof the following new subsection:

"(b) Whenever the Commissioner determines that—

"(1) any school facilities with respect to which payments were made under section 7 of this Act, pursuant to an application approved under section 6 after the enactment of this subsection, are not being used by a local educational agency for the provision of free public education, and

"(2) such facilities are needed in the provision of minimum facilities under subsection (a),

he shall notify such agency of such determination and shall thereupon be entitled to possession of such facilities for purposes of subsection (a), on such terms and conditions as may be prescribed in regulations of the Commissioner. Such regulations shall include provision for payment of rental in an amount which bears the same relationship to what, in the judgment of the Commissioner, is a reasonable rental for such facilities as the non-Federal share of the cost of construction of such facilities bore to the total cost of construction thereof (including the cost of land and off-site improvements), adjusted to take into consideration the depreciation in the value of the facilities and such other factors as the Commissioner deems relevant. Upon application by the local educational agency for the school district in which such facilities are situated and determined by the Commissioner that such agency is able and willing to provide suitable free public education for the children in the school district of such agency to whom section 10 is applicable, or upon determination by the Commissioner that such facilities are no longer needed for purposes of subsection (a), possession of the facilities shall be returned to such agency. Such return shall be effected at such time as, in the judgment of the Commissioner, will be in the best interest of the children who are receiving free public education in such facilities, and in the light of the objectives of this Act and the commitments made to personnel employed in connection with operation of such facilities pursuant to arrangements made by the Commissioner."

TITLE VII

GRANTS TO ASSIST STATE AND LOCAL EDUCATIONAL AGENCIES TO EFFECTUATE DESEGREGATION

SEC. 701. (a) The Congress recognizes that (1) prior to May 17, 1954, the Constitution of the United States has been interpreted as permitting public schools to be segregated on racial grounds provided such schools afforded equal educational opportunities; (2) on May 17, 1954, the Supreme Court of the United States ruled that under the fourteenth amendment to the Constitution segregated education is inherently unequal; (3) the Constitution as interpreted by the Supreme Court of the United States is the supreme law of the land; (4) State and local governments and agencies which had relied upon the "separate but equal" doctrine are now obligated to take steps toward the elimination of segregation in their public schools; and (5) many of these governments and agencies are faced with serious financial and educational problems in making the necessary adjustments in their existing school systems.

(b) It is therefore the intent of Congress and the purpose of this title to assist State and local governments and agencies in carrying out their constitutional obligations by sharing certain of the additional expenditures directly occasioned by desegregation programs and by providing information and technical assistance in connection therewith.

AUTHORIZATION OF APPROPRIATIONS

SEC. 702. (a) For the purpose of assisting State and local educational agencies which, on May 17, 1954, maintained segregated public schools to effectuate desegregation in such schools in a manner consistent with pertinent Federal

court decisions, there are hereby authorized to be appropriated for each fiscal year such sums as the Congress may determine.

(b) Appropriations under this section shall be available for grants to help finance:

(1) costs incurred by local educational agencies in the provision of supervisory or administrative services, pupil placement, school social worker, or visiting teacher services, and other special, nonteaching, professional services, the need for which is occasioned by the desegregation of their public schools, and

(2) costs incurred by State agencies in developing and carrying out State policies and programs for desegregation in public schools, including technical assistance to local educational agencies in connection therewith.

ALLOTMENTS AND PAYMENTS TO STATES

SEC. 703. (a) The Commissioner of Education (hereinafter called the "Commissioner") shall for each fiscal year allot to each State, from the sums appropriated pursuant to section 702 for such year, an amount which bears the same ratio to such sums (or to such larger sum as may be specified in the Act making the appropriation) as the number of students who attended segregated public schools in such State during the school year 1953-1954 bears to the number of students who attended such schools during such year in all the States. The number of students who attended segregated public schools in each State during the school year 1953-54 shall be estimated by the Commissioner on the basis of the best available data on the average daily attendance of local educational agencies during such school year.

(b) From a State's allotment under subsection (a) for a fiscal year, the Commissioner shall, except as otherwise provided in section 705, pay to such State an amount equal to one-half of the expenditures of local educational agencies in carrying out the purposes specified in section 702(b)(1) under applications approved by the State agency (designated as provided in section 704(a)(1)) pursuant to the State plan approved under section 704, and one-half of the expenditures of such State agency in carrying out the purposes specified in section 702(b)(2) under such plan, including its expenditures in administering the State plan. Payments under this section (and section 705) shall be made from time to time by the Commissioner on the basis of estimates of amounts to be expended in a quarter or other period or periods determined by him, with necessary adjustments on account of any overpayment or underpayment for any prior period or periods.

STATE PLANS

SEC. 704. (a) A State plan shall be approved by the Commissioner for purposes of this title if such plan—

(1) designates the State educational agency to administer or supervise the administration of the plan, or designates another single agency of the State for such purpose and in such case provides methods for effective coordination between such agency and the State educational agency;

(2) sets forth the methods and criteria for approving applications of local educational agencies for funds under this title, and describes the activities to be carried on by the State agency with the aid of funds under this title;

(3) provides such accounting, budgeting, and other fiscal methods and procedures as are necessary for the proper and efficient administration of the State plan;

(4) provides that the State agency will make such reports to the Commissioner, in such form and containing such information, as are reasonably necessary to enable the Commissioner to assure expenditure of grants under this title solely for the purposes for which made and otherwise to perform his functions under this title.

(b) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency administering or supervising administration of the State plan approved under subsection (a), finds that—

(1) the State plan has been so changed that it no longer complies with any of the requirements of subsection (a), or

(2) in the administration of the plan there is a failure to comply substantially with any such requirement,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in his discretion, that further payments to the State will be limited to parts of or programs under the plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall limit payments to parts of or programs under the State plan not affected by such failure).

LOCAL AGENCY APPLICATIONS

SEC. 705. If the Commissioner determines, with respect to any State for which an allotment has been made under section 703(a) for any fiscal year, that such State will not for such year submit and have approved a State plan under section 704, and either (a) that such State has consented to the making of applications by local educational agencies pursuant to this section, or (b) that such State has indicated that it assumes no responsibility with respect to the desegregation of public schools, the Commissioner shall, notwithstanding the provisions of section 703(b), pay to local educational agencies, with applications approved by him under this section, one-half of the expenditures of such agencies during such year in carrying out the purposes of section 702(b)(1), but such payments may not exceed, in the aggregate, the State's allotment for such year. The Commissioner shall by regulation prescribe criteria and procedures, for approval and withdrawal of approval of applications under this section, which will, in his judgment, best effectuate the purposes of this title.

DEFINITIONS

SEC. 706. For purposes of this title—

(1) The term "public school" means a public school which provides elementary or secondary education, as determined under State law, but does not include a school of any agency of the United States.

(2) The term "segregated public school" means a public school to which students on May 17, 1954, could not, under the constitution or laws of the State in which such schools are located or under ordinances or rulings of the appropriate local educational agency pursuant to such constitution or laws, be admitted without regard to race or color.

(3) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public schools, or, if there is no such officer or agency, any officer or agency designated by the Governor or by State law.

(4) The term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a city, county, township, school district, or political subdivision in a State; and includes any State agency which directly operates and maintains public schools.

FEDERAL ADMINISTRATION

SEC. 707. (a) The Commissioner shall collect and disseminate such information on the progress of desegregation in the public schools in the several States as may be useful to educational and other public officials, agencies, and organizations in effecting desegregation in such schools.

(b) The Commissioner shall, upon request, provide information and technical assistance to State or local officials, which will aid them in developing plans and programs for effecting desegregation in public schools, and, upon request of such officials, shall initiate or participate in conferences dealing with the educational aspects of problems arising in connection with efforts to comply with applicable court desegregation decisions or decrees.

(c) The Commissioner may delegate to any officer or employee of the Office of Education any of his powers and duties under this title, except the promulgation of regulations.

(d) No appropriations may be made pursuant to section 702 for any fiscal year ending after June 30, 1961. Prior to the close of January 1961, the Secretary of Health, Education, and Welfare shall submit to the Congress a full report of the administration of this title, together with his recommendations as to whether it should be extended and as to any modification of its provisions he deems appropriate.

TITLE VIII

SEPARABILITY

SEC. 801. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected thereby.

[H.R. 5008, 86th Cong., 1st sess.]

A BILL To effectuate and enforce the constitutional right to the equal protection of the laws, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SHORT TITLE AND FINDINGS

SEC. 101. This Act may be cited as the "Civil Rights Act of 1959".

SEC. 102. (a) The Congress hereby finds that—

(1) recent decisions of the Supreme Court of the United States holding racial segregation unlawful in public education, public transportation, and public recreational facilities (hereinafter referred to as the antisegregation decisions) as a denial of the constitutional right to the equal protection of the laws express the moral ideals of the Nation and the world and point the way to a nation enhanced in strength and dignity at home and enhanced in honor and prestige throughout the world,

(2) these antisegregation decisions are being resisted in many areas of the Nation most directly affected by them and indirectly evaded in other areas, thereby denying to millions of Americans within our borders the constitutional right to the equal protection of the laws,

(3) many States, municipalities, school districts, and other local governmental units have failed to make a prompt and reasonable start toward full compliance with the Supreme Court's decisions in the field of public education despite the substantial time which has already elapsed since the promulgation of those decisions in 1954 and 1955,

(4) the constitutional right to the equal protection of the laws is being denied to many persons because of race, color, religion, or national origin in fields other than education, transportation, and recreation,

(5) these denials of the constitutional right to the equal protection of the laws restrict millions of Americans to second-class citizenship and deprive the Nation of the maximum development and maximum benefits that can be contributed by such persons, and

(6) legislative and executive action (A) is necessary to safeguard and guarantee to all Americans the constitutional right to equal protection of the laws and (B) will aid in expediting universal compliance with the antisegregation decisions of the Supreme Court.

(b) The Congress further finds that the rights protected by the Constitution, as declared by the antisegregation decisions, will be more widely accepted and more fully enjoyed in all areas of the Nation, and particularly in those areas of the Nation most directly affected by the decisions, when it is generally recognized and understood that—

(1) the Constitution, as declared by the antisegregation decisions, is the supreme law of the land,

(2) all Federal and State officials are bound by their oaths or affirmations to support the Constitution, and

(3) the legislative and executive branches of the Federal Government are acting and will continue to act, with such Federal authority as is found necessary, to protect the constitutional rights upheld by those decisions of the judicial branch of the Government.

(c) The Congress further finds that—

(1) the present system whereby individual plaintiffs in the Federal courts bear the burden of protecting constitutional rights, as declared by the antisegregation decisions, is neither the exclusive nor the most effective means of protecting those constitutional rights and the public interest in

safeguarding those constitutional rights, and has resulted in local restrictive and punitive measures against the individuals and organizations engaging in, and supporting, efforts in the courts to assert those constitutional rights, and

(2) specific authorization to the executive branch of the Federal Government to act in support of the constitutional rights upheld by the antisegregation decisions (A) will provide a more rational, uniform, just, and effective system of protecting constitutional rights than the present procedure under which the safeguarding of constitutional rights is determined by the varying resources and courage of individuals and organizations and by the varying State statutory restrictions placed upon them, and (B) will render less effective, and hence tend to reduce, hostile community pressures upon individuals and organizations seeking to safeguard constitutional rights.

(d) The Congress hereby recognizes it to be the initial responsibility of all States, municipalities, school districts, and other local governmental units to safeguard the constitutional right to the equal protection of the laws as declared by the antisegregation decisions of the Supreme Court and to administer their systems of public education, public transportation, and public recreational facilities in accordance with the Constitution of the United States, but the Federal Government, to maintain a more perfect union, to extend justice, to promote the common defense, and to secure the blessings of liberty to all persons, has a coordinate responsibility to guarantee the constitutional right to the equal protection of the laws, to prevent denials of the right when State or local authorities cannot or will not do so, and thus to enhance the Nation's internal strength and its position throughout the world.

(e) Recognizing its authority and responsibility under the fifth section of the fourteenth amendment to the Constitution of the United States and its obligation to uphold the coordinate authority and responsibility of the judicial branch of the Government, the Congress hereby declares its intention that the right to the equal protection of the laws guaranteed by the Constitution against deprivation by reason of race, color, religion, or national origin and affirmed by the antisegregation decisions of the Supreme Court, shall be protected by all due and reasonable means, and to that end enacts the following provisions of this Act.

TITLE II

TECHNICAL ASSISTANCE BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Sec. 201. The Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the "Secretary") is hereby authorized to render technical assistance to States, municipalities, school districts, and other local governmental units to eliminate denials of constitutional rights in the field of public education by reason of race, color, religion, or national origin and to come into compliance with the decisions of the Supreme Court in the field of public education by—

(a) assembling, publishing, and distributing information which, in his judgment, will prove helpful in obtaining public understanding of, and compliance with, the Constitution and decisions of the Supreme Court in the field of public education;

(b) surveying the progress made in eliminating segregation in public education in various parts of the country and making available to public agencies, private organizations, private individuals, and the general public the results of such surveys, including wherever possible successful case histories of desegregation and the ways and means utilized to bring about desegregation in such instances;

(c) planning, calling, and holding local, State, regional, and national conferences attended by State and local officials, representatives of private organizations, and private citizens, to discuss ways and means of eliminating segregation in public education generally or in any particular State, municipality, school district, or other local governmental unit;

(d) appointing local, State, regional, and national advisory councils to assist the Secretary in carrying out his duties under this Act and to offer their assistance to any State, municipality, school district, or other local governmental unit to come into compliance with the Constitution and the decisions of the Supreme Court in the field of public education;

(e) reporting to the Congress, at least semiannually, concerning the progress being made in eliminating segregation in public education in various parts of the country; and

(f) assisting, by such other related means as he deems appropriate, States, municipalities, school districts, and other local governmental units to eliminate segregation in public education.

SEC. 202. The Secretary shall recruit, employ, and train specialists in preparing, putting into effect, and carrying out plans for eliminating segregation in public education and shall offer the services of the specialists to States, municipalities, school districts, and other local governmental units. Upon request of any State, municipality, school district, or other local governmental unit, the Secretary shall make available to the requesting governmental unit the services of one or more specialists for such periods of time and in such numbers as the Secretary deems necessary and appropriate in the light of the particular needs of the requesting governmental unit.

SEC. 203. (a) The Secretary is authorized to reimburse any State or local official, representative of a private organization, or private citizen who is invited by him to attend any local, State, regional, or national conference held under the authority of section 201(c), and any member of an advisory council appointed under the authority of section 201(d) who is carrying out authorized functions, for travel expenses incurred, and to pay to any such person per diem in lieu of subsistence, in the same amounts as authorized by law (5 U.S.C. 73b-2) for persons in the Government service serving without compensation.

(b) The Secretary is authorized to reimburse any State or local official who, with the approval of the Secretary, is invited to confer with one or more specialists employed by the Secretary under section 202 for travel expenses incurred in attending such conference, and to pay to any such official per diem in lieu of subsistence, in the same amounts as authorized by law (5 U.S.C. 73b-2) for persons in the Government service serving without compensation.

SEC. 204. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1959, and for each of the four succeeding fiscal years, such amounts not to exceed \$2,500,000 in any fiscal year as may be necessary for carrying out the purposes of this title.

TITLE III

GRANTS TO AREAS WHERE DESEGREGATION IN PUBLIC EDUCATION IS BEING CARRIED OUT

SEC. 301. (a) The Secretary is authorized to make grants to States, municipalities, school districts, and other local governmental units which maintained racial segregation in their public schools on May 17, 1954, and which make application for such grants, to assist in meeting the costs of additional educational measures undertaken or to be undertaken to further the process of eliminating segregation in the public schools of the applicant State, municipality, school district, or local governmental unit, while at the same time assuming that existing educational standards will not be lowered.

(b) Grants may be made under this section for—

(1) the cost of employing additional schoolteachers.

(2) the cost of giving to teachers and other school personnel in-service training in dealing with problems incident to desegregation.

(3) the cost of employing specialists in problems incident to desegregation and of providing other assistance to develop understanding by parents, schoolchildren, and the general public of plans and efforts for eliminating segregation in the schools in order to reduce the possibility of community hostility or unlawful resistance to such plans and efforts, and

(4) other costs directly related to the process of eliminating segregation in public schools, including the replacement of State payments to a school district or other political subdivision withdrawn because the applicant district or subdivision is eliminating, or is starting to eliminate segregation.

(c) Grants may also be made under this section for the construction, enlargement, or alteration of school facilities when the Secretary finds that lack or inadequacy of existing facilities makes the carrying out of any reasonable plan for desegregation without lowering existing educational standards impracticable or materially more difficult.

(d) Each application made for a grant under this section shall provide such detailed breakdown of the additional educational measures for which financial assistance is sought as the Secretary may by regulations prescribe.

(e) Each grant under this section shall be made in such amounts and on such terms and conditions as the Secretary shall prescribe, which may include a condition that the applicant expend funds in specified amounts for the pur-

pose for which the grant is made. In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Secretary shall take into consideration—

- (1) the amount available for grants under this section and the other applications which are pending before him,
- (2) the financial condition of the applicant and the other resources available to it,
- (3) the nature, extent, and gravity of its problems incident to desegregation,
- (4) whether the additional educational measures undertaken or to be undertaken are reasonably and effectively designed to further the process of eliminating racial segregation, while at the same time assuring that existing educational standards will not be lowered, and
- (5) such other factors as he finds relevant.

Sec. 302. The Secretary is further authorized to make grants to public or other nonprofit educational institutions of higher learning to meet or assist in meeting the cost of short-term training courses or institutes, not to exceed four weeks in duration, for personnel of public schools or of educational agencies engaged in or about to undertake desegregation, designed to enable such personnel to deal more effectively with problems incident to desegregation. Such grants may also be used by such institutions to establish and maintain fellowships for such training courses or institutes, covering tuition, fees, and such stipends and allowances (including travel and subsistence expenses) as may be determined by the Secretary.

Sec. 303. Payments of grants under sections 301 and 302 may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary may determine.

Sec. 304. (a) There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1959, and for each of the four succeeding fiscal years, such sums, not exceeding \$40,000,000 for any fiscal year, as may be necessary to carry out the provisions of this title.

(b) In making grants from funds appropriated for any fiscal year for the purposes specified in section 301(b), the Secretary may disregard applications received after August 31 in that fiscal year, or may subordinate such applications to applications received before that date. In the event that he receives, either before or after that date, applications which he considers would materially contribute to carrying out the purposes of this title, but which he cannot grant because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

(c) In the event that the Secretary receives applications for grants for the purpose specified in section 301(c) which he considers would materially contribute to carrying out the purposes of this title, but which he cannot grant because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

TITLE IV

ADMINISTRATIVE ACTION DIRECTED TOWARD ELIMINATING SEGREGATION IN PUBLIC EDUCATION

Sec. 401. The Secretary shall make every effort to persuade States, municipalities, school districts, and other loyal governmental units to make a start toward eliminating segregation in public education and to carry out in full such programs as they may start, and to this end he shall utilize the authority provided in titles II and III.

Sec. 402. Whenever the Secretary shall find that all efforts under titles II and III and under section 401 of this title have failed, and continue to fail, in bringing about a start toward the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit, the Secretary is authorized to prepare a tentative plan for the elimination of segregation in public education in such State, municipality, school district, or other local governmental unit. In preparing such a tentative plan, the Secretary shall seek the advice and assistance of public officials, private organizations, and private citizens in the area and of any local, State, regional, or national advisory council appointed pursuant to section 201(d); and he shall care-

fully consider such advice and assistance wherever available. Tentative plans prepared by the Secretary under the authority of this section shall take into account the need of the particular area for time to make an orderly adjustment and transition from segregated to desegregated schools.

Sec. 403. (a) Whenever the Secretary has prepared a tentative plan for the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit, he shall forward the plan to the governor, mayor, or other appropriate official, as the case may be. If the State, municipality, school district, or other local governmental unit agrees to put into effect the tentative plan as proposed by the Secretary or as modified by the State, municipality, school district, or other local governmental unit with the consent of the Secretary, the Secretary shall utilize the authority granted in titles II and III to assist the State, municipality, school district, or other local governmental unit in putting into effect the tentative plan.

(b) If the State, municipality, school district, or other local governmental unit (1) does not agree to put into effect the tentative plan as proposed by the Secretary or as modified with his consent, or (2) after agreeing to the tentative plan as proposed by the Secretary or as modified with his consent, or (2) after agreeing to the tentative plan as so proposed or modified, does not, in the judgment of the Secretary, carry out such tentative plan, the Secretary shall hold a public hearing upon the tentative plan. Notice of such hearing shall be given to the local authorities concerned by registered mail and notice shall be given to private organizations and private citizens within the area by publication in one or more newspapers. Local authorities, private organizations, and private citizens shall be permitted to participate in the hearing and present evidence and argument in favor of the tentative plan, in favor of amendments to the tentative plan, or in opposition to the plan or to any plan, but cumulative evidence may be excluded in the discretion of the Secretary. Anyone shall be permitted to file a written statement with the Secretary in addition to, or in lieu of, personal appearance at the public hearing.

(c) After the hearing provided in subsection (b) has been concluded, the Secretary shall prepare and issue an approved plan for eliminating segregation in public education in the State, municipality, school district, or other local governmental unit. He shall publish the approved plan in the Federal Register and in one or more newspapers in the area affected thereby and shall transmit a certified copy thereof to the appropriate official of the State, municipality, school district, or other local governmental unit involved.

(d) In order that the proceedings under this title shall expedite the elimination of segregation in any State, municipality, school district, or other local governmental unit, the Secretary shall handle all proceedings under this title as expeditiously as possible. The Secretary shall complete any proceedings hereunder within one year from the time that a tentative plan is forwarded to the governor, mayor, or other appropriate official under section 403 (a), or, in case a State, municipality, school district, or other local governmental unit agrees to a tentative plan but does not carry it out, within six months from the time that the Secretary determines that such State, municipality, school district, or other local governmental unit is not carrying out such tentative plan.

SEC. 404. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1959, and for each of the four succeeding fiscal years, such amounts as may be necessary for carrying out the purposes of this title.

SEC. 405. The Secretary is authorized to carry out his responsibilities and exercise his authority under this title and under titles II and III through designated personnel in his own office or through any existing bureau, division, or agency of the Department of Health, Education, and Welfare or through a new office created by him for the special purpose of exercising the Secretary's responsibilities hereunder, except that the Secretary shall personally review and sign any approved plan issued under section 403 (c).

TITLE V

AUTHORIZATION TO THE ATTORNEY GENERAL IN THE FIELD OF PUBLIC EDUCATION

SEC. 501. (a) Whenever (1) the Secretary has published in the Federal Register an approved plan for the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit pursuant to section 403(c), (2) the State, municipality, school district, or other

local governmental unit has rejected the plan or has refused or failed to act in accordance therewith, and (3) the Secretary has certified to the Attorney General that all efforts to secure compliance with the Constitution and the Supreme Court's decisions by conciliation, persuasion, education, and assistance under titles II, III, and IV have failed, the Attorney General of the United States is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against the appropriate officials of the State, municipality, school district, or other local governmental unit, and any individual or individuals acting in concert with such officials to enforce compliance with the approved plan.

(b) The Attorney General is authorized to move to dismiss or discontinue any action brought under subsection (a), or to propose or to agree to a decree adopting a plan for elimination of segregation in public education which is different from the approved plan, whenever he determines that the State, municipality, school district, or other local governmental unit is making, or is prepared to make, a prompt and reasonable start toward full compliance with the Constitution and the Supreme Court's decisions in the field of education and to work toward full compliance with all deliberate speed.

(c) Any interested party may, with the leave of the court, intervene in any action brought under subsection (a), and the court shall consider any proposals by the intervenors, as well as by the defendant or defendants, in determining its final decree.

TITLE VI

OTHER AUTHORIZATIONS TO THE ATTORNEY GENERAL

SEC. 601. (a) Whenever the Attorney General receives a signed complaint that any person or group of persons is being deprived of, or is being threatened with the loss of, the right to the equal protection of the laws by reason of race, color, religion, or national origin and whenever the Attorney General certifies that, in his judgment, such person or group of persons is unable for any reason to seek effective legal protection for the right to the equal protection of the laws, the Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or subdivision or instrumentality thereof, deprives or threatens to deprive such person or group of persons of the right to equal protection of the laws by reason of race, color, religion, or national origin and against any individual or individuals acting in concert with them.

(b) A person or group of persons shall be deemed unable to seek effective legal protection for the right to the equal protection of the laws within the meaning of subsection (a) not only when such person or group of persons is financially unable to bear the expenses of the litigation, but also when there is reason to believe that the institution of such litigation would jeopardize the employment or other economic activity of, or might result in physical harm or economic damage to, such person or group of persons or their families.

(c) Nothing contained in titles IV and V shall limit the authority of the Attorney General to institute and maintain an action under subsection (a).

SEC. 602. The Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for injunction or other order, (1) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder, any Federal, State, or local official from according any person or group of persons the right to the equal protection of the laws without regard to race, color, religion, or national origin, or (2) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder the execution of any court order protecting the right to the equal protection of the laws without regard to race, color, religion, or national origin.

SEC. 603. The Attorney General is authorized, upon receipt of a signed complaint, to institute for or in the name of the United States, a civil action or other proceeding for preventive relief, including an application for injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or territory or subdivision or instrumentality thereof, deprives or threatens to deprive any person

or group of persons or association of persons of any right guaranteed by the fourteenth amendment of the Constitution because such person or group of persons or association of persons has opposed or opposes the denial of the equal protection of the laws to others because of race, color, religion, or national origin.

SEC. 604. Whenever a suit is brought in any district court of the United States seeking relief from the deprivation of the right of equal protection of the laws because of race, color, religion, or national origin, the Attorney General is authorized to intervene in such action with all the rights of a party thereto and to seek compliance with any lawful order issued by such district court.

TITLE VII

MISCELLANEOUS PROVISIONS

SEC. 701. The district courts of the United States shall have jurisdiction of proceedings instituted under sections 501, 601, 602, and 603 of this Act and shall exercise the same without regard to whether any administrative or other remedies that may be provided by law shall have been exhausted and, in the case of proceedings instituted under sections 601 and 602, without regard to whether any administrative proceeding is pending or contemplated under title IV, it being the purpose of title IV to expedite, not delay, the elimination of segregation in public education throughout the Nation. In any proceeding hereunder, the United States shall be liable for costs the same as a private person.

SEC. 702. Nothing in this Act or in any administrative proceeding hereunder shall be construed to impair any right guaranteed by the Constitution or laws of the United States or any remedies already existing for the protection or enforcement, nor to prevent any private individual or organization from acting to enforce or safeguard any constitutional right in any manner now permitted by law.

SEC. 703. If any provision of this Act or the application of such provision to any person or circumstances is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

[H.R. 5170, 86th Cong., 1st sess.]

A BILL To effectuate and enforce the constitutional right to the equal protection of the laws, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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(1) recent decisions of the Supreme Court of the United States holding racial segregation unlawful in public education, public transportation, and public recreational facilities (hereinafter referred to as the anti-segregation decisions) as a denial of the constitutional right to the equal protection of the laws express the moral ideals of the Nation and the world and point the way to a nation enhanced in strength and dignity at home and enhanced in honor and prestige throughout the world.

(2) these antisegregation decisions are being resisted in many areas of the Nation most directly affected by them and indirectly evaded in other areas, thereby denying to millions of Americans within our borders the constitutional right to the equal protection of the laws,

(3) many States, municipalities, school districts, and other local governmental units have failed to make a prompt and reasonable start toward full compliance with the Supreme Court's decisions in the field of public education despite the substantial time which has already elapsed since the promulgation of those decisions in 1954 and 1955,

(4) the constitutional right to the equal protection of the laws is being denied to many persons because of race, color, religion, or national origin in fields other than education, transportation, and recreation,

(5) these denials of the constitutional right to the equal protection of the laws restrict millions of Americans to second-class citizenship and deprive the Nation of the maximum development and maximum benefits that can be contributed by such persons, and

(6) legislative and executive action (A) is necessary to safeguard and guarantee to all Americans the constitutional right to equal protection of the laws and (B) will aid in expediting universal compliance with the antisegregation decisions of the Supreme Court.

(b) The Congress further finds that the rights protected by the Constitution, as declared by the antisegregation decisions, will be more widely accepted and more fully enjoyed in all areas of the Nation, and particularly in those areas of the Nation most directly affected by the decisions, when it is generally recognized and understood that—

(1) the Constitution, as declared by the antisegregation decisions, is the supreme law of the land,

(2) all Federal and State officials are bound by their oaths or affirmations to support the Constitution, and

(3) the legislative and executive branches of the Federal Government are acting and will continue to act, with such Federal authority as is found necessary, to protect the constitutional rights upheld by those decisions of the judicial branch of the Government.

(c) The Congress further finds that—

(1) the present system whereby individual plaintiffs in the Federal courts bear the burden of protecting constitutional rights, as declared by the antisegregation decisions, is neither the exclusive nor the most effective means of protecting those constitutional rights and the public interest in safeguarding those constitutional rights, and has resulted in local restrictive and punitive measures against the individuals and organizing engaging in, and supporting, efforts in the courts to assert those constitutional rights, and

(2) specific authorization to the executive branch of the Federal Government to act in support of the constitutional rights upheld by the antisegregation decisions (A) will provide a more rational, uniform, just, and effective system of protecting constitutional rights than the present procedure under which the safeguarding of constitutional rights is determined by the varying resources and courage of individuals and organizations and by the varying State statutory restrictions placed upon them, and (B) will render less effective, and hence tend to reduce, hostile community pressures upon individuals and organizations seeking to safeguard constitutional rights.

(d) The Congress hereby recognizes it to be the initial responsibility of all States, municipalities, school districts, and other local governmental units to safeguard the constitutional right to the equal protection of the laws as declared by the antisegregation decisions of the Supreme Court and to administer their systems of public education, public transportation, and public recreational facilities in accordance with the Constitution of the United States, but the Federal Government, to maintain a more perfect union, to extend justice, to promote the common defense, and to secure the blessings of liberty to all persons, has a coordinate responsibility to guarantee the constitutional right to the equal protection of the laws, to prevent denials of the right when State or local authorities cannot or will not do so, and thus to enhance the Nation's internal strength and its position throughout the world.

(e) Recognizing its authority and responsibility under the fifth section of the fourteenth amendment to the Constitution of the United States and its obligation to uphold the coordinate authority and responsibility of the judicial branch of the Government, the Congress hereby declares its intention that the right to the equal protection of the laws guaranteed by the Constitution against deprivation by reason of race, color, religion, or national origin and affirmed by the antisegregation decisions of the Supreme Court, shall be protected by all due and reasonable means, and to that end enacts the following provisions of this Act.

TITLE II

TECHNICAL ASSISTANCE BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Sec. 201. The Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the "Secretary") is hereby authorized to render technical assistance to States, municipalities, school districts, and other local governmental units to eliminate denials of constitutional rights in the field of public education by reason of race, color, religion, or national origin and to come into compliance with the decisions of the Supreme Court in the field of public education by—

(a) assembling, publishing, and distributing information which, in his judgment, will prove helpful in obtaining public understanding of, and compliance with, the Constitution and decisions of the Supreme Court in the field of public education;

(b) surveying the progress made in eliminating segregation in public education in various parts of the country and making available to public agencies, private organizations, private individuals, and the general public the results of such surveys, including wherever possible successful case histories of desegregation and the ways and means utilized to bring about desegregation in such instances;

(c) planning, calling, and holding local, State, regional, and national conferences attended by State and local officials, representatives of private organizations, and private citizens, to discuss ways and means of eliminating segregation in public education generally or in any particular State, municipality, school district, or other local governmental unit;

(d) appointing local, State, regional, and national advisory councils to assist the Secretary in carrying out his duties under this Act and to offer their assistance to any State, municipality, school district, or other local governmental unit to come into compliance with the Constitution and the decisions of the Supreme Court in the field of public education;

(e) reporting to the Congress, at least semiannually, concerning the progress being made in eliminating segregation in public education in various parts of the country; and

(f) assisting, by such other related means as he deems appropriate, States, municipalities, school districts, and other local governmental units to eliminate segregation in public education.

Sec. 202. The Secretary shall recruit, employ, and train specialists in preparing, putting into effect, and carrying out plans for eliminating segregation in public education and shall offer the services of the specialists to States, municipalities, school districts, and other local governmental units. Upon request of any State, municipality, school district, or other local governmental unit, the Secretary shall make available to the requesting governmental unit the services of one or more specialists for such periods of time and in such numbers as the Secretary deems necessary and appropriate in the light of the particular needs of the requesting governmental unit.

Sec. 203. (a) The Secretary is authorized to reimburse any State or local official, representative of a private organization, or private citizen who is invited by him to attend any local, State, regional, or national conference held under the authority of section 201(c), and any member of an advisory council appointed under the authority of section 201(d) who is carrying out authorized functions, for travel expenses incurred, and to pay to any such person per diem in lieu of subsistence, in the same amounts as authorized by law (5 U.S.C. 73b-2) for persons in the Government service serving without compensation.

(b) The Secretary is authorized to reimburse any State or local official who, with the approval of the Secretary, is invited to confer with one or more specialists employed by the Secretary under section 202 for travel expenses incurred in attending such conference, and to pay to any such official per diem in lieu of subsistence, in the same amounts as authorized by law (5 U.S.C. 73b-2) for persons in the Government service serving without compensation.

Sec. 204. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1959, and for each of the four succeeding fiscal years, such amounts not to exceed \$2,500,000 in any fiscal year as may be necessary for carrying out the purposes of this title.

TITLE III

GRANTS TO AREAS WHERE DESEGREGATION IN PUBLIC EDUCATION IS BEING CARRIED OUT

SEC. 301. (a) The Secretary is authorized to make grants to States, municipalities, school districts, and other local governmental units which maintained racial segregation in their public schools on May 17, 1954, and which make application for such grants, to assist in meeting the costs of additional educational measures undertaken or to be undertaken to further the process of eliminating segregation in the public schools of the applicant State, municipality, school district, or local governmental unit, while at the same time assuring that existing educational standards will not be lowered.

(b) Grants may be made under this section for—

(1) the cost of employing additional school teachers,

(2) the cost of giving to teachers and other school personnel in-service training in dealing with problems incident to desegregation,

(3) the cost of employing specialists in problems incident to desegregation and of providing other assistance to develop understanding by parents, schoolchildren, and the general public of plans and efforts for eliminating segregation in the schools in order to reduce the possibility of community hostility or unlawful resistance to such plans and efforts, and

(4) other costs directly related to the process of eliminating segregation in public schools, including the replacement of State payments to a school district or other political subdivision withdrawn because the applicant district or subdivision is eliminating, or is starting to eliminate, segregation.

(c) Grants may also be made under this section for the construction, enlargement, or alteration of school facilities when the Secretary finds that lack or inadequacy of existing facilities makes the carrying out of any reasonable plan for desegregation without lowering existing educational standards impracticable or materially more difficult.

(d) Each application made for a grant under this section shall provide such detailed breakdown of the additional educational measures for which financial assistance is sought as the Secretary may by regulations prescribe.

(e) Each grant under this section shall be made in such amounts and on such terms and conditions as the Secretary shall prescribe, which may include a condition that the applicant expend funds in specified amounts for the purpose for which the grant is made. In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Secretary shall take into consideration—

(1) the amount available for grants under this section and the other applications which are pending before him,

(2) the financial condition of the applicant and the other resources available to it,

(3) the nature, extent, and gravity of its problems incident to desegregation,

(4) whether the additional educational measures undertaken or to be undertaken are reasonably and effectively designed to further the process of eliminating racial segregation, while at the same time assuring that existing educational standards will not be lowered, and

(5) such other factors as he finds relevant.

SEC. 302. The Secretary is further authorized to make grants to public or other nonprofit educational institutions of higher learning to meet or assist in meeting the cost of short-term training courses or institutes, not to exceed four weeks in duration, for personnel of public schools or of educational agencies engaged in or about to undertake desegregation, designed to enable such personnel to deal more effectively with problems incident to desegregation. Such grants may also be used by such institutions to establish and maintain fellowships for such training courses or institutes, covering tuition, fees, and such stipends and allowances (including travel and subsistence expenses) as may be determined by the Secretary.

SEC. 303. Payments of grants under sections 301 and 302 may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary may determine.

SEC. 304. (a) There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1959, and for each of the four succeeding fiscal years,

such sums, not exceeding \$40,000,000 for any fiscal year, as may be necessary to carry out the provisions of this title.

(b) In making grants from funds appropriated for any fiscal year for the purposes specified in section 301 (b), the Secretary may disregard applications received after August 31 in that fiscal year, or may subordinate such applications to applications received before that date. In the event that he receives, either before or after that date, applications which he considers would materially contribute to carrying out the purposes of this title, but which he cannot grant because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

(c) In the event that the Secretary receives applications for grants for the purpose specified in section 301 (c) which he considers would materially contribute to carrying out the purposes of this title, but which he cannot grant because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

TITLE IV

ADMINISTRATIVE ACTION DIRECTED TOWARD ELIMINATING SEGREGATION IN PUBLIC EDUCATION

Sec. 401. The Secretary shall make every effort to persuade States, municipalities, school districts, and other local governmental units to make a start toward eliminating segregation in public education and to carry out in full such programs as they may start, and to this end he shall utilize the authority provided in titles II and III.

Sec. 402. Whenever the Secretary shall find that all efforts under titles II and III and under section 401 of this title have failed, and continue to fail, in bringing about a start toward the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit, the Secretary is authorized to prepare a tentative plan for the elimination of segregation in public education in such State, municipality, school district, or other local governmental unit. In preparing such a tentative plan, the Secretary shall seek the advice and assistance of public officials, private organizations, and private citizens in the area and of any local, State, regional, or national advisory council appointed pursuant to section 201 (d) and he shall carefully consider such advice and assistance wherever available. Tentative plans prepared by the Secretary under the authority of this section shall take into account the need of the particular area for time to make an orderly adjustment and transition from segregated to desegregated schools.

Sec. 403. (a) Whenever the Secretary has prepared a tentative plan for the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit, he shall forward the plan to the governor, mayor, or other appropriate official, as the case may be. If the State, municipality, school district, or other local governmental unit agrees to put into effect the tentative plan as proposed by the Secretary or as modified by the State, municipality, school district, or other local governmental unit with the consent of the Secretary, the Secretary shall utilize the authority granted in titles II and III to assist the State, municipality, school district, or other local governmental unit in putting into effect the tentative plan.

(b) If the State, municipality, school district, or other local governmental unit (1) does not agree to put into effect the tentative plan as proposed by the Secretary or as modified with his consent, or (2) after agreeing to the tentative plan as so proposed or modified, does not, in the judgment of the Secretary, carry out such tentative plan, the Secretary shall hold a public hearing upon the tentative plan. Notice of such hearing shall be given to the local authorities concerned by registered mail and notice shall be given to private organizations and private citizens within the area by publication in one or more newspapers. Local authorities, private organizations, and private citizens shall be permitted to participate in the hearing and present evidence and argument in favor of the tentative plan, in favor of amendments to the tentative plan, or in opposition to the plan or to any plan, but cumulative evidence may be excluded in the discretion of the Secretary. Anyone shall be permitted to file a written statement with the Secretary in addition to, or in lieu of, personal appearance at the public hearing.

(c) After the hearing provided in subsection (b) has been concluded, the Secretary shall prepare and issue an approved plan for eliminating segregation in public education in the State, municipality, school district, or other local governmental unit. He shall publish the approved plan in the Federal Register and in one or more newspapers in the area affected thereby and shall transmit a certified copy thereof to the appropriate official of the State, municipality, school district, or other local governmental unit involved.

(d) In order that the proceedings under this title shall expedite the elimination of segregation in any State, municipality, school district, or other local governmental unit, the Secretary shall handle all proceedings under this title as expeditiously as possible. The Secretary shall complete any proceedings hereunder within one year from the time that a tentative plan is forwarded to the governor, mayor, or other appropriate official under section 403 (a), or, in case a State, municipality, school district, or other local governmental unit agrees to a tentative plan but does not carry it out, within six months from the time that the Secretary determines that such State, municipality, school district, or other local governmental unit is not carrying out such tentative plan.

SEC. 404. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1959, and for each of the four succeeding fiscal years, such amounts as may be necessary for carrying out the purposes of this title.

SEC. 405. The Secretary is authorized to carry out his responsibilities and exercise his authority under this title and under titles II and III through designated personnel in his own office or through any existing bureau, division, or agency of the Department of Health, Education, and Welfare or through a new office created by him for the special purpose of exercising the Secretary's responsibilities hereunder, except that the Secretary shall personally review and sign any approved plan issued under section 403(c).

TITLE V

AUTHORIZATION TO THE ATTORNEY GENERAL IN THE FIELD OF PUBLIC EDUCATION

SEC. 501. (a) Whenever (1) the Secretary has published in the Federal Register an approved plan for the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit pursuant to section 403(c), (2) the State, municipality, school district, or other local governmental unit has rejected the plan or has refused or failed to act in accordance therewith, and (3) the Secretary has certified to the Attorney General that all efforts to secure compliance with the Constitution and the Supreme Court's decisions by conciliation, persuasion, education, and assistance under titles II, III, and IV have failed, the Attorney General of the United States is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against the appropriate officials of the State, municipality, school district, or other local governmental unit and any individual or individuals acting in concert with such officials to enforce compliance with the approved plan.

(b) The Attorney General is authorized to move to dismiss or discontinue any action brought under subsection (a), or to propose or agree to a decree adopting a plan for elimination of segregation in public education which is different from the approved plan, whenever he determines that the State, municipality, school district, or other local governmental unit is making, or is prepared to make, a prompt and reasonable start toward full compliance with the Constitution and the Supreme Court's decisions in the field of education and to work toward full compliance with all deliberate speed.

(c) Any interested party may, with the leave of the court, intervene in any action brought under subsection (a), and the court shall consider any proposals by the intervenors, as well as by the defendant or defendants, in determining its final decree.

TITLE VI

OTHER AUTHORIZATIONS TO THE ATTORNEY GENERAL

SEC. 601. (a) Whenever the Attorney General receives a signed complaint that any person or group of persons is being deprived of, or is being threatened with the loss of, the right to the equal protection of the laws by reason of race, color, religion, or national origin and whenever the Attorney General certifies that, in his judgment, such person or group of persons is unable for any reason

to seek effective legal protection for the right to the equal protection of the laws, the Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or territory or subdivision or instrumentality thereof, deprives or threatens to deprive such person or group of persons of the right to equal protection of the laws by reason of race, color, religion, or national origin and against any individual or individual acting in concert with them.

(b) A person or group of persons shall be deemed unable to seek effective legal protection for the right to the equal protection of the laws within the meaning of subsection (a) not only when such person or group of persons is financially unable to bear the expenses of the litigation, but also when there is reason to believe that the institution of such litigation would jeopardize the employment or other economic activity of, or might result in physical harm or economic damage to, such person or group of persons or their families.

(c) Nothing contained in titles IV and V shall limit the authority of the Attorney General to institute and maintain an action under subsection (a).

SEC. 602. The Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for injunction or other order, (1) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder, any Federal, State, or local official from according any person or group of persons the right to the equal protection of the laws without regard to race, color, religion, or national origin, or (2) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder the execution of any court order protecting the right to the equal protection of the laws without regard to race, color, religion, or national origin.

SEC. 603. The Attorney General is authorized, upon receipt of a signed complaint, to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or subdivision or instrumentality thereof, deprives or threatens to deprive any person or group of persons or association of persons of any right guaranteed by the fourteenth amendment of the Constitution because such person or group of persons or association of persons has opposed or opposes the denial of the equal protection of the laws to others because of race, color, religion, or national origin.

SEC. 604. Whenever a suit is brought in any district court of the United States seeking relief from the deprivation of the right of equal protection of the laws because of race, color, religion, or national origin, the Attorney General is authorized to intervene in such action with all the rights of a party thereto and to seek compliance with any lawful order issued by such district court.

TITLE VII

MISCELLANEOUS PROVISIONS

SEC. 701. The district courts of the United States shall have jurisdiction of proceedings instituted under sections 501, 601, 602, and 603 of this Act and shall exercise the same without regard to whether any administrative or other remedies that may be provided by law shall have been exhausted and, in the case of proceedings instituted under sections 601 and 602, without regard to whether any administrative proceeding is pending or contemplated under title IV, it being the purpose of title IV to expedite not delay the elimination of segregation in public education throughout the Nation. In any proceeding hereunder, the United States shall be liable for costs the same as a private person.

SEC. 702. Nothing in this Act or in any administrative proceeding hereunder shall be construed to impair any right guaranteed by the Constitution or laws of the United States or any remedies already existing for their protection or enforcement, nor to prevent any private individual or organization from acting to enforce or safeguard any constitutional right in any manner now permitted by law.

SEC. 703. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act, or the

application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

[H.R. 5189, 86th Cong., 1st sess.]

A BILL To declare certain rights of all persons within the jurisdiction of the United States, and for the protection of such persons from lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Antilynching Act".

PURPOSES

SEC. 2. The Congress finds that the succeeding provisions of this Act are necessary in order to accomplish the following purposes:

(a) To insure the most complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(b) To safeguard the republican form of government of the several States from the lawless conduct of persons threatening to destroy the systems of public criminal justice therein and threatening to frustrate the function thereof through duly constituted officials.

RIGHT TO BE FREE OF LYNCHING

SEC. 3. It is hereby declared that the right to be free from lynching is a right of all persons, whether or not citizens of the United States, who are within the jurisdiction of the United States. As to all such persons, such right accrues by virtue of the provisions of the Constitution of the United States. As to citizens of the United States, such right additionally accrues by virtue of such citizenship. Such right is in addition to the same or any similar right or rights they may have as persons within the jurisdiction of, or as citizens of, the several States, the District of Columbia, the Territories, possessions, or other areas within the exclusive jurisdiction of the United States.

DEFINITIONS

SEC. 4. (a) Whenever two or more persons shall knowingly in concert (a) commit or attempt to commit violence upon any person or persons or on his or their property because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by violence against person or property, any power of correction or punishment over any person or persons in the custody of any governmental officer or employee or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, such persons shall constitute a lynch mob within the meaning of this Act. Any such action, or attempt at such action, by a lynch mob shall constitute lynching within the meaning of this Act.

The term "governmental officer or employee", as used in this Act, shall mean any officer or employee of a State or any governmental subdivision thereof, or any officer or employee of the United States, the District of Columbia, or any Territory, possession, or other area within the exclusive jurisdiction of the United States.

PUNISHMENT FOR LYNCHING

SEC. 5. Any person, whether or not a governmental officer or employee, (a) who is a member of a lynch mob or (b) who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall, upon conviction, be fined not more than \$1,000 or imprisoned not more than one year, or both: *Provided, however,* That where such lynching results in death or maiming or other serious physical or mental injury, or in damage to property, constituting a felony under applicable State, District of Columbia, Territorial, or similar law, any such person shall, upon conviction, be fined not more than \$10,000 or imprisoned not more than twenty years, or both. A felony, for purposes of this section, shall be deemed an offense which, under applicable State, District of Columbia, Territorial, or similar law, is punishable by imprisonment for more than one year.

PUNISHMENT FOR KNOWING FAILURE TO PREVENT OR PUNISH LYNCHING

SEC. 6. Whenever a lynching shall occur, (a) any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or knowingly failed to make all diligent efforts to prevent the lynching, and (b) any governmental officer or employee who shall have had custody of a person or persons lynched and shall have neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, and (c) any governmental officer or employee who, in violation of his duty as such officer or employee, shall neglect, refuse, or knowingly fail to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding \$5,000 or by imprisonment not exceeding five years, or by both.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 7. The Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this Act, whenever information on oath is submitted to him that a lynching has occurred, and (a) that any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent such lynching, has neglected, refused, or knowingly failed to make all diligent efforts to prevent such lynching, or (b) that any governmental officer or employee who shall have had custody of a person or persons lynched and has neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, or (c) that any governmental officer or employee, in violation of his duty as such officer or employee, has neglected, refused, or knowingly failed to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever.

AMENDMENT TO ANTIKIDNAPING ACT

SEC. 8. The crime defined in and punishable under the Act of June 22, 1932, as amended (18 U.S.C. 1201, 1202), shall include knowingly transporting in interstate or foreign commerce, any person unlawfully abducted and held because of his race, color, religion, national origin, ancestry, language, or religion, or for purposes of punishment, conviction, or intimidation.

CIVIL ACTIONS FOR DAMAGES

SEC. 9. (a) Any person, or in the event of his death the next of kin of any person, who as the result of a lynching suffers death, physical or mental injury, or property damage shall be entitled to maintain a civil action for damages for such death, injury, or damages against—

(1) any person who violates sections 6, 7, or 9 of this Act in connection with such lynching;

(2) (A) the United States, or the District of Columbia, or any Territory, possession or other governmental subdivision of the United States to which local police functions have been delegated and in which the lynching takes place; or

(B) the State or governmental subdivision thereof to which local police functions have been delegated and in which the lynching takes place.

In any action brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States, or against any State or governmental subdivision thereof, proof by a preponderance of evidence that any officers charged with preventing the lynching used all diligence and all powers vested in them for the protection of the property damaged, or of the person or persons killed or injured shall be an adequate affirmative defense. In any action brought pursuant to this section, the satisfaction of a judgment against any individual or governmental defendant shall bar further proceedings against any other individual or governmental defendant. Where recovery in any action brought pursuant to this section is based in whole or in part on death or on physical or mental injury, the judgment shall be not less than \$2,000.

(b) Where any action under this section is brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States the action shall be brought and prosecuted by the claimant or claimants and any judgment recovered shall include reasonable attorney's fees.

(c) Any judge of the United States district court for the district in which any action under this section is instituted, or in which such action may have been transferred under the provisions of section 1404 of title 28 of the United States Code, may direct that such action be tried in any place in such district as he may designate.

(d) Any action brought pursuant to this section must be initiated within three years of the accrual of the cause of action.

SEVERABILITY CLAUSE

SEC. 10. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provisions to other persons and circumstances shall not be affected thereby.

[H.R. 5217, 86th Cong., 1st sess.]

A BILL To insure the equal protection of the laws to all persons regardless of race, color, religion, or national origin

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the Attorney General of the United States shall determine that any person or group of persons are being deprived of, or are being threatened with loss of, their right to the equal protection of the laws by reason of their race, color, religion, or national origin, and that such person or group of persons are unable for any reason to vindicate or to protect their right to the equal protection of the laws, the Attorney General is authorized to institute for or in the name of the United States, a civil action or other proceeding for preventive relief, including an application for injunction or other order, against any person or persons who, under color of any statute, ordinance, regulations, custom, or usage, of any State or Territory or subdivision or instrumentality thereof, deprives or threatens to deprive any person or group of persons of their rights to the equal protection of the laws by reason of their race, color, religion, or national origin.

SEC. 2. The Attorney General is hereby authorized, upon written request of the duly constituted authorities of any State or Territory or subdivision or instrumentality thereof, to institute for or in the name of the United States, a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any person or persons preventing or hindering or threatening to prevent or hinder such duly constituted authorities from giving or securing to any person or group of persons their right to the equal protection of the laws.

SEC. 3. The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to sections 1 and 2 of this Act and shall exercise the same without regard to whether any administrative or other remedies that may be provided by the law shall have been exhausted. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

SEC. 4. Nothing in this Act shall be construed as impairing any rights secured by the Constitution and laws of the United States, or any remedies already existing for their protection and enforcement.

[H.R. 5218, 86th Cong., 1st sess.]

A BILL To effectuate and enforce the constitutional right to the equal protection of the laws, and for other purposes

TITLE I

SHORT TITLE AND FINDINGS

SEC. 101. This Act may be cited as the "Civil Rights Act of 1950".

SEC. 102. (a) The Congress hereby finds that—

(1) recent decisions of the Supreme Court of the United States holding racial segregation unlawful in public education, public transportation, and

public recreational facilities (hereinafter referred to as the antisegregation decisions) as a denial of the constitutional right to the equal protection of the laws express the moral ideals of the Nation and the world and point the way to a nation enhanced in strength and dignity at home and enhanced in honor and prestige throughout the world,

(2) these antisegregation decisions are being resisted in many areas of the Nation most directly affected by them and indirectly evaded in other areas, thereby denying to millions of Americans within our borders the constitutional right to the equal protection of the laws,

(3) many States, municipalities, school districts, and other local governmental units have failed to make a prompt and reasonable start toward full compliance with the Supreme Court's decisions in the field of public education despite the substantial time which has already elapsed since the promulgation of those decisions in 1954 and 1955,

(4) the constitutional right to the equal protection of the laws is being denied to many persons because of race, color, religion, or national origin in fields other than education, transportation, and recreation,

(5) these denials of the constitutional right to the equal protection of the laws restrict millions of Americans to second-class citizenship and deprive the Nation of the maximum development and maximum benefits that can be contributed by such persons, and

(6) legislative and executive action (A) is necessary to safeguard and guarantee to all Americans the constitutional right to equal protection of the laws and (B) will aid in expediting universal compliance with the anti-segregation decisions of the Supreme Court.

(b) The Congress further finds that the rights protected by the Constitution, as declared by the antisegregation decisions, will be more widely accepted and more fully enjoyed in all areas of the Nation, and particularly in those areas of the Nation most directly affected by the decisions, when it is generally recognized and understood that—

(1) the Constitution, as declared by the antisegregation decisions, is the supreme law of the land,

(2) all Federal and State officials are bound by their oaths or affirmations to support the Constitution, and

(3) the legislative and executive branches of the Federal Government are acting and will continue to act, with such Federal authority as is found necessary, to protect the constitutional rights upheld by those decisions of the judicial branch of the Government.

(c) The Congress further finds that—

(1) the present system whereby individual plaintiffs in the Federal courts bear the burden of protecting constitutional rights, as declared by the anti-segregation decisions, is neither the exclusive nor the most effective means of protecting those constitutional rights and the public interest in safeguarding those constitutional rights, and has resulted in local restrictive and punitive measures against the individuals and organizations engaging in, and supporting, efforts in the courts to assert those constitutional rights, and

(2) specific authorization to the executive branch of the Federal Government to act in support of the constitutional rights upheld by the anti-segregation decisions (A) will provide a more rational, uniform, just, and effective system of protecting constitutional rights than the present procedure under which the safeguarding of constitutional rights is determined by the varying resources and courage of individuals and organizations and by the varying State statutory restrictions placed upon them, and (B) will render less effective, and hence tend to reduce, hostile community pressures upon individuals and organizations seeking to safeguard constitutional rights.

(d) The Congress hereby recognizes it to be the initial responsibility of all States, municipalities, school districts, and other local governmental units to safeguard the constitutional right to the equal protection of the laws as declared by the antisegregation decisions of the Supreme Court and to administer their systems of public education, public transportation, and public recreational facilities in accordance with the Constitution of the United States, but the Federal Government, to maintain a more perfect union, to extend justice, to promote the common defense, and to secure the blessings of liberty to all persons, has a coordinate responsibility to guarantee the constitutional right to the equal protection of the laws, to prevent denials of the right when State or local authorities cannot or will not do so, and thus to enhance the Nation's internal strength and its position throughout the world.

(e) Recognizing its authority and responsibility under the fifth section of the fourteenth amendment to the Constitution of the United States and its obligation to uphold the coordinate authority and responsibility of the judicial branch of the Government, the Congress hereby declares its intention that the right to the equal protection of the laws guaranteed by the Constitution against deprivation by reason of race, color, religion, or national origin and affirmed by the antisegregation decisions of the Supreme Court, shall be protected by all due and reasonable means, and to that end enacts the following provision of this Act.

TITLE II

TECHNICAL ASSISTANCE BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE

SEC. 201. The Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the "Secretary") is hereby authorized to render technical assistance to States, municipalities, school districts, and other local governmental units to eliminate denials of constitutional rights in the field of public education by reason of race, color, religion, or national origin and to come into compliance with the decisions of the Supreme Court in the field of public education by—

(a) assembling, publishing, and distributing information which, in his judgment, will prove helpful in obtaining public understanding of, and compliance with, the Constitution and decisions of the Supreme Court in the field of public education;

(b) Surveying the progress made in eliminating segregation in public education in various parts of the country and making available to public agencies, private organizations, private individuals, and the general public the results of such surveys, including wherever possible successful case histories of desegregation and the ways and means utilized to bring about desegregation in such instances;

(c) planning, calling, and holding local, State, regional, and national conferences attended by State and local officials, representatives of private organizations, and private citizens, to discuss ways and means of eliminating segregation in public education generally or in any particular State, municipality, school district, or other local governmental unit;

(d) appointing local, State, regional, and national advisory councils to assist the Secretary in carrying out his duties under this Act and to offer their assistance to any State, municipality, school district, or other local governmental unit to come into compliance with the Constitution and the decisions of the Supreme Court in the field of public education;

(e) reporting to the Congress, at least semiannually, concerning the progress being made in eliminating segregation in public education in various parts of the country; and

(f) assisting, by such other related means as he deems appropriate, States, municipalities, school districts, and other local governmental units to eliminate segregation in public education.

SEC. 202. The Secretary shall recruit, employ, and train specialists in preparing, putting into effect, and carrying out plans for eliminating segregation in public education and shall offer the services of the specialists to States, municipalities, school districts, and other local governmental units. Upon request of any State, municipality, school district, or other local governmental unit, the Secretary shall make available to the requesting governmental unit the services of one or more specialists for such periods of time and in such numbers as the Secretary deems necessary and appropriate in the light of the particular needs of the requesting governmental unit.

SEC. 203. (a) The Secretary is authorized to reimburse any State or local official, representative of a private organization, or private citizen who is invited by him to attend any local, State, regional, or national conference held under the authority of section 201 (c), and any member of an advisory council appointed under the authority of section 201 (d) who is carrying out authorized functions, for travel expenses incurred, and to pay to any such person per diem in lieu of subsistence, in the same amounts as authorized by law (5 U. S. C. 73b-2) for persons in the Government service serving without compensation.

(b) The Secretary is authorized to reimburse any State or local official who, with the approval of the Secretary, is invited to confer with one or more specialists employed by the Secretary under section 202 for travel expenses incurred in attending such conference, and to pay to any such official per diem in lieu of

subsistence, in the same amounts as authorized by law (5 U. S. C. 73b-2) for persons in the Government service serving without compensation.

SEC. 204. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1958, and for each of the four succeeding fiscal years, such amounts not to exceed \$2,500,000 in any fiscal year as may be necessary for carrying out the purposes of this title.

TITLE III

GRANTS TO AREAS WHERE DESEGREGATION IN PUBLIC EDUCATION IS BEING CARRIED OUT

SEC. 301. (a) The Secretary is authorized to make grants to States, municipalities, school districts, and other local governmental units which maintained racial segregation in their public schools on May 17, 1954, and which make application for such grants, to assist in meeting the costs of additional educational measures undertaken or to be undertaken to further the process of eliminating segregation in the public schools of the applicant State, municipality, school district, or local governmental unit, while at the same time assuring that existing educational standards will not be lowered.

(b) Grants may be made under this section for—

- (1) the cost of employing additional schoolteachers,
 - (2) the cost of giving to teachers and other school personnel in-service training in dealing with problems incident to desegregation,
 - (3) the cost of employing specialists in problems incident to desegregation and of providing other assistance to develop understanding by parents, schoolchildren, and the general public of plans and efforts for eliminating segregation in the schools in order to reduce the possibility of community hostility or unlawful resistance to such plans and efforts, and
 - (4) other costs directly related to the process of eliminating segregation in public schools, including the replacement of State payments to a school district or other political subdivision withdrawn because the applicant district or subdivision is eliminating, or is starting to eliminate, segregation.
- (c) Grants may also be made under this section for the construction, enlargement, or alteration of school facilities when the Secretary finds that lack or inadequacy of existing facilities makes the carrying out of any reasonable plan for desegregation without lowering existing educational standards impracticable or materially more difficult.

(d) Each application made for a grant under this section shall provide such detailed breakdown of the additional educational measures for which financial assistance is sought as the Secretary may by regulations prescribe.

(e) Each grant under this section shall be made in such amounts and on such terms and conditions as the Secretary shall prescribe, which may include a condition that the applicant expend funds in specified amounts for the purpose for which the grant is made. In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Secretary shall take into consideration—

- (1) the amount available for grants under this section and the other applications which are pending before him,
- (2) the financial condition of the applicant and the other resources available to it,
- (3) the nature, extent, and gravity of its problems incident to desegregation,
- (4) whether the additional educational measures undertaken or to be undertaken are reasonably and effectively designed to further the process of eliminating racial segregation, while at the same time assuring that existing educational standards will not be lowered, and
- (5) such other factors as he finds relevant.

SEC. 302. The Secretary is further authorized to make grants to public or other nonprofit educational institutions of higher learning to meet or assist in meeting the cost of short-term training courses or institutes, not to exceed four weeks in duration, for personnel of public schools or of educational agencies engaged in or about to undertake desegregation, designed to enable such personnel to deal more effectively with problems incident to desegregation. Such grants may also be used by such institutions to establish and maintain fellowships for such training courses or institutes, covering tuition, fees, and such stipends and allowances (including travel and subsistence expenses), as may be determined by the Secretary.

SEC. 303. Payments of grants under sections 301 and 302 may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary may determine.

SEC. 304. (a) There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1958, and for each of the four succeeding fiscal years, such sums, not exceeding \$40,000,000 for any fiscal year, as may be necessary to carry out the provisions of this title.

(b) In making grants from funds appropriated for any fiscal year for the purposes specified in section 301(b), the Secretary may disregard applications received after August 31 in that fiscal year, or may subordinate such applications to applications received before that date. In the event that he receives, either before or after that date, applications which he considers would materially contribute to carry out the purposes of this title, but which he cannot grant because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

(c) In the event that the Secretary receives applications for grants for the purpose specified in section 301(c) which he considers would materially contribute to carrying out the purposes of this title, but which he cannot grant because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

TITLE IV

ADMINISTRATIVE ACTION DIRECTED TOWARD ELIMINATING SEGREGATION IN PUBLIC EDUCATION

SEC. 401. The Secretary shall make every effort to persuade States, municipalities, school districts, and other local governmental units to make a start toward eliminating segregation in public education and to carry out in full such programs as they may start, and to this end he shall utilize the authority provided in titles II and III.

SEC. 402. Whenever the Secretary shall find that all efforts under titles II and III and under section 401 of this title have failed, and continue to fail, in bringing about a start toward the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit, the Secretary is authorized to prepare a tentative plan for the elimination of segregation in public education in such State, municipality, school district, or other local governmental unit. In preparing such a tentative plan, the Secretary shall seek the advice and assistance of public officials, private organizations, and private citizens in the area and of any local, State, regional, or national advisory council appointed pursuant to section 201(d) and he shall carefully consider such advice and assistance wherever available. Tentative plans prepared by the Secretary under the authority of this section shall take into account the need of the particular area for time to make an orderly adjustment and transition from segregated to desegregated schools.

SEC. 403. (a) Whenever the Secretary has prepared a tentative plan for the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit, he shall forward the plan to the governor, mayor, or other appropriate official, as the case may be. If the State, municipality, school district, or other local governmental unit agrees to put into effect the tentative plan as proposed by the Secretary or as modified by the State, municipality, school district, or other local governmental unit with the consent of the Secretary, the Secretary shall utilize the authority granted in titles II and III to assist the State, municipality, school district, or other local governmental unit in putting into effect the tentative plan.

(b) If the State, municipality, school district, or other local governmental unit (1) does not agree to put into effect the tentative plan as proposed by the Secretary or as modified with his consent, or (2) after agreeing to the tentative plan as so proposed or modified, does not, in the judgment of the Secretary, carry out such tentative plan, the Secretary shall hold a public hearing upon the tentative plan. Notice of such hearing shall be given to the local authorities concerned by registered mail and notice shall be given to private organizations and private citizens within the area by publication in one or more newspapers. Local authorities, private organizations, and private citizens shall be permitted to participate in the hearing and present evidence and argument in favor of the

tentative plan, in favor of amendments to the tentative plan, or in opposition to the plan or to any plan, but cumulative evidence may be excluded in the discretion of the Secretary. Anyone shall be permitted to file a written statement with the Secretary in addition to, or in lieu of, personal appearance at the public hearing.

(c) After the hearing provided in subsection (b) has been concluded, the Secretary shall prepare and issue an approved plan for eliminating segregation in public education in the State, municipality, school district, or other local governmental unit. He shall publish the approved plan in the Federal Register and in one or more newspapers in the area affected thereby and shall transmit a certified copy thereof to the appropriate official of the State, municipality, school district, or other local governmental unit involved.

(d) In order that the proceedings under this title shall expedite the elimination of segregation in any State, municipality, school district, or other local governmental unit, the Secretary shall handle all proceedings under this title as expeditiously as possible. The Secretary shall complete any proceedings hereunder within one year from the time that a tentative plan is forwarded to the governor, mayor, or other appropriate official under section 403(a), or, in case a State, municipality, school district, or other local governmental unit agrees to a tentative plan but does not carry it out, within six months from the time that the Secretary determines that such State, municipality, school district, or other local governmental unit is not carrying out such tentative plan.

SEC. 404. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1958, and for each of the four succeeding fiscal years, such amounts as may be necessary for carrying out the purposes of this title.

SEC. 405. The Secretary is authorized to carry out his responsibilities and exercise his authority under this title and under titles II and III through designated personnel in his own office or through any existing bureau, division, or agency of the Department of Health, Education, and Welfare or through a new office created by him for the special purpose of exercising the Secretary's responsibilities hereunder, except that the Secretary shall personally review and sign any approved plan issued under section 403 (c).

TITLE V

AUTHORIZATION TO THE ATTORNEY GENERAL IN THE FIELD OF PUBLIC EDUCATION

SEC. 501. (a) Whenever (1) the Secretary has published in the Federal Register an approved plan for the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit pursuant to section 403 (c), (2) the State, municipality, school district, or other local governmental unit has rejected the plan or has refused or failed to act in accordance therewith, and (3) the Secretary has certified to the Attorney General that all efforts to secure compliance with the Constitution and the Supreme Court's decisions by conciliation, persuasion, education, and assistance under titles II, III, and IV have failed, the Attorney General of the United States is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against the appropriate officials of the State, municipality, school district, or other local governmental unit and any individual or individuals acting in concert with such officials to enforce compliance with the approved plan.

(b) The Attorney General is authorized to move to dismiss or discontinue any action brought under subsection (a), or to propose or to agree to a decree adopting a plan for elimination of segregation in public education which is different from the approved plan, whenever he determines that the State, municipality, school district, or other local governmental unit is making, or is prepared to make, a prompt and reasonable start toward full compliance with the Constitution and the Supreme Court's decisions in the field of education and to work toward full compliance with all deliberate speed.

(c) Any interested party may, with the leave of the court, intervene in any action brought under subsection (a), and the court shall consider any proposals by the intervenors, as well as by the defendant or defendants, in determining its final decree.

TITLE VI

OTHER AUTHORIZATIONS TO THE ATTORNEY GENERAL

SEC. 601. (a) Whenever the Attorney General receives a signed complaint that any person or group of persons is being deprived of, or is being threatened with the loss of, the right to the equal protection of the laws by reason of race, color, religion, or national origin and whenever the Attorney General certifies that, in his judgment, such person or group of persons is unable for any reason to seek effective legal protection for the right to the equal protection of the laws, the Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or territory or subdivision or instrumentality thereof, deprives or threatens to deprive such person or group of persons of the right to equal protection of the laws by reason of race, color, religion, or national origin and against any individual or individuals acting in concert with them.

(b) A person or group of persons shall be deemed unable to seek effective legal protection for the right to the equal protection of the laws within the meaning of subsection (a) not only when such person or group of persons is financially unable to bear the expenses of the litigation, but also when there is reason to believe that the institution of such litigation would jeopardize the employment or other economic activity of, or might result in physical harm or economic damage to, such person or group of persons or their families.

(c) Nothing contained in titles IV and V shall limit the authority of the Attorney General to institute and maintain an action under subsection (a).

SEC. 602. The Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for injunction or other order, (1) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder, any Federal, State, or local official from according any person or group of persons the right to the equal protection of the laws without regard to race, color, religion, or national origin, or (2) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder the execution of any court order protecting the right to the equal protection of the laws without regard to race, color, religion, or national origin.

SEC. 603. The Attorney General is authorized, upon receipt of a signed complaint, to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or subdivision or instrumentality thereof, deprives or threatens to deprive any person or group of persons or association of persons of any right guaranteed by the fourteenth amendment of the Constitution because such person or group of persons or association of persons has opposed or opposes the denial of the equal protection of the laws to others because of race, color, religion, or national origin.

SEC. 604. Whenever a suit is brought in any district court of the United States seeking relief from the deprivation of the right of equal protection of the laws because of race, color, religion, or national origin, the Attorney General is authorized to intervene in such action with all the rights of a party thereto and to seek compliance with any lawful order issued by such district court.

TITLE VII

MISCELLANEOUS PROVISIONS

SEC. 701. The district courts of the United States shall have jurisdiction of proceedings instituted under sections 501, 601, 602, and 603 of this Act and shall exercise the same without regard to whether any administrative or other remedies that may be provided by law shall have been exhausted and, in the case of proceedings instituted under sections 601 and 602, without regard to whether any administrative proceeding is pending or contemplated under title IV, it being the purpose of title IV to expedite not delay the elimination of segregation

in public education throughout the Nation. In any proceeding hereunder, the United States shall be liable for costs the same as a private person.

SEC. 702. Nothing in this Act or in any administrative proceeding hereunder shall be construed to impair any right guaranteed by the Constitution or laws of the United States or any remedies already existing for their protection or enforcement, nor to prevent any private individual or organization from acting to enforce or safeguard any constitutional right in any manner now permitted by law.

SEC. 703. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

[H.R. 5276, 86th Cong., 1st sess.]

A BILL To effectuate and enforce the constitutional right to the equal protection of the laws, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SHORT TITLE AND FINDINGS

SEC. 101. This Act may be cited as the "Civil Rights Act of 1959".

SEC. 102. (a) The Congress hereby finds that—

(1) recent decisions of the Supreme Court of the United States holding racial segregation unlawful in public education, public transportation, and public recreational facilities (hereinafter referred to as the antisegregation decisions) as a denial of the constitutional right to the equal protection of the laws express the moral ideals of the Nation and the world and point the way to a nation enhanced in strength and dignity at home and enhanced in honor and prestige throughout the world.

(2) these antisegregation decisions are being resisted in many areas of the Nation most directly affected by them and indirectly evaded in other areas, thereby denying to millions of Americans within our borders the constitutional right to the equal protection of the laws,

(3) many States, municipalities, school districts, and other local governmental units have failed to make a prompt and reasonable start toward full compliance with the Supreme Court's decisions in the field of public education despite the substantial time which has already elapsed since the promulgation of those decisions in 1954 and 1955,

(4) the constitutional right to the equal protection of the laws is being denied to many persons because of race, color, religion, or national origin in fields other than education, transportation, and recreation,

(5) these denials of the constitutional right to the equal protection of the laws restrict millions of Americans to second-class citizenship and deprive the Nation of the maximum development and maximum benefits that can be contributed by such persons, and

(6) legislative and executive action (A) is necessary to safeguard and guarantee to all Americans the constitutional right to equal protection of the laws and (B) will aid in expediting universal compliance with the anti-segregation decisions of the Supreme Court.

(b) The Congress further finds that the rights protected by the Constitution, as declared by the antisegregation decisions, will be more widely accepted and more fully enjoyed in all areas of the Nation, and particularly in those areas of the Nation most directly affected by the decisions, when it is generally recognized and understood that—

(1) the Constitution, as declared by the antisegregation decisions, is the supreme law of the land,

(2) all Federal and State officials are bound by their oaths or affirmations to support the Constitution, and

(3) the legislative and executive branches of the Federal Government are acting and will continue to act, with such Federal authority as is found necessary, to protect the constitutional rights upheld by those decisions of the judicial branch of the Government.

(c) The Congress further finds that—

(1) the present system whereby individual plaintiffs in the Federal courts bear the burden of protecting constitutional rights, as declared by the antisegregation decisions, is neither the exclusive nor the most effective means of protecting those constitutional rights and the public interest in safeguarding those constitutional rights, and has resulted in local restrictive and punitive measures against the individuals and organizations engaging in, and supporting, efforts in the courts to assert those constitutional rights, and

(2) specific authorization to the executive branch of the Federal Government to act in support of the constitutional rights upheld by the antisegregation decisions (A) will provide a more rational, uniform, just, and effective system of protecting constitutional rights than the present procedure under which the safeguarding of constitutional rights is determined by the varying resources and courage of individuals and organizations and by the varying State statutory restrictions placed upon them, and (B) will render less effective, and hence tend to reduce, hostile community pressures upon individuals and organizations seeking to safeguard constitutional rights.

(d) The Congress hereby recognizes it to be the initial responsibility of all States, municipalities, school districts, and other local governmental units to safeguard the constitutional right to the equal protection of the laws as declared by the antisegregation decisions of the Supreme Court and to administer their systems of public education, public transportation, and public recreational facilities in accordance with the Constitution of the United States, but the Federal Government, to maintain a more perfect union, to extend justice, to promote the common defense, and to secure the blessings of liberty to all persons, has a coordinate responsibility to guarantee the constitutional right to the equal protection of the laws, to prevent denials of the right when State or local authorities cannot or will not do so, and thus to enhance the Nation's internal strength and its position throughout the world.

(e) Recognizing its authority and responsibility under the fifth section of the fourteenth amendment to the Constitution of the United States and its obligation to uphold the coordinate authority and responsibility of the judicial branch of the Government, the Congress hereby declares its intention that the right to the equal protection of the laws guaranteed by the Constitution against deprivation by reason of race, color, religion, or national origin and affirmed by the antisegregation decisions of the Supreme Court, shall be protected by all due and reasonable means, and to that end enacts the following provisions of this Act.

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(a) assembling, publishing, and distributing information which, in his judgment, will prove helpful in obtaining public understanding of, and compliance with, the Constitution and decisions of the Supreme Court in the field of public education;

(b) surveying the progress made in eliminating segregation in public education in various parts of the country and making available to public agencies, private organizations, private individuals, and the general public the results of such surveys, including wherever possible successful case histories of desegregation and the ways and means utilized to bring about desegregation in such instances;

(c) planning, calling, and holding local, State, regional, and national conferences attended by State and local officials, representatives of private organizations, and private citizens, to discuss ways and means of eliminating segregation in public education generally or in any particular State, municipality, school district, or other local governmental unit;

(d) appointing local, State, regional, and national advisory councils to assist the Secretary in carrying out his duties under this Act and to offer

their assistance to any State, municipality, school district, or other local governmental unit to come into compliance with the Constitution and the decisions of the Supreme Court in the field of public education;

(e) reporting to the Congress, at least semiannually, concerning the progress being made in eliminating segregation in public education in various parts of the country; and

(f) assisting, by such other related means as he deems appropriate, States, municipalities, school districts, and other local governmental units to eliminate segregation in public education.

SEC. 202. The Secretary shall recruit, employ, and train specialists in preparing, putting into effect, and carrying out plans for eliminating segregation in public education and shall offer the services of the specialists to States, municipalities, school districts, and other local governmental units. Upon request of any State, municipality, school district, or other local governmental unit, the Secretary shall make available to the requesting governmental unit the services of one or more specialists for such periods of time and in such numbers as the Secretary deems necessary and appropriate in the light of the particular needs of the requesting governmental unit.

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(b) The Secretary is authorized to reimburse any State or local official who, with the approval of the Secretary, is invited to confer with one or more specialists employed by the Secretary under section 202 for travel expenses incurred in attending such conference, and to pay to any such official per diem in lieu of subsistence, in the same amounts as authorized by law (5 U.S.C. 73b-2) for persons in the Government service serving without compensation.

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- (1) the cost of employing additional schoolteachers,
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- (3) the cost of employing specialists in problems incident to desegregation and of providing other assistance to develop understanding by parents, schoolchildren, and the general public of plans and efforts for eliminating segregation in the schools in order to reduce the possibility of community hostility or unlawful resistance to such plans and efforts, and
- (4) other costs directly related to the process of eliminating segregation in public schools, including the replacement of State payments to a school district or other political subdivision withdrawn because the applicant district or subdivision is eliminating, or is starting to eliminate segregation.

(c) Grants may also be made under this section for the construction, enlargement, or alteration of school facilities when the Secretary finds that lack or inadequacy of existing facilities makes the carrying out of any reasonable plan for desegregation without lowering existing educational standards impracticable or materially more difficult.

(d) Each application made for a grant under this section shall provide such detailed breakdown of the additional educational measures for which financial assistance is sought as the Secretary may by regulations prescribe.

(e) Each grant under this section shall be made in such amounts and on such terms and conditions as the Secretary shall prescribe, which may include a condition that the applicant expend funds in specified amounts for the purpose for which the grant is made. In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Secretary shall take into consideration—

(1) the amount available for grants under this section and the other applications which are pending before him,

(2) the financial condition of the applicant and the other resources available to it,

(3) the nature, extent, and gravity of its problems incident to desegregation,

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(b) In making grants from funds appropriated for any fiscal year for the purposes specified in section 301(b), the Secretary may disregard applications received after August 31 in that fiscal year, or may subordinate such application to applications received before that date. In the event that he receives, either before or after that date, applications which he considers would materially contribute to carrying out the purposes of this title, but which he cannot grant because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

(c) In the event that the Secretary receives applications for grants for the purpose specified in section 301(c) which he considers would materially contribute to carrying out the purposes of this title, but which he cannot grant because of lack or inadequacy of available funds, he shall forthwith report this fact to the Congress and to the President, together with his recommendation with respect to the appropriation of additional funds.

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Sec. 401. The Secretary shall make every effort to persuade States, municipalities, school districts, and other local governmental units to make a start toward eliminating segregation in public education and to carry out in full such programs as they may start, and to this end he shall utilize the authority provided in titles II and III.

Sec. 402. Whenever the Secretary shall find that all efforts under titles II and III and under section 401 of this title have failed, and continue to fail, in bringing about a start toward the elimination of segregation in public education in

any State, municipality, school district, or other local governmental unit, the Secretary is authorized to prepare a tentative plan for the elimination of segregation in public education in such State, municipality, school district, or other local governmental unit. In preparing such a tentative plan, the Secretary shall seek the advice and assistance of public officials, private organizations, and private citizens in the area and of any local, State, regional, or national advisory council appointed pursuant to section 201(d); and he shall carefully consider such advice and assistance wherever available. Tentative plans prepared by the Secretary under the authority of this section shall take into account the need of the particular area for time to make an orderly adjustment and transition from segregated to desegregated schools.

SEC. 403. (a) Whenever the Secretary has prepared a tentative plan for the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit, he shall forward the plan to the governor, mayor, or other appropriate official, as the case may be. If the State, municipality, school district, or other local governmental unit agrees to put into effect the tentative plan as proposed by the Secretary or as modified by the State, municipality, school district, or other local governmental unit with the consent of the Secretary, the Secretary shall utilize the authority granted in titles II and III to assist the State, municipality, school district, or other local governmental unit in putting into effect the tentative plan.

(b) If the State, municipality, school district, or other local governmental unit (1) does not agree to put into effect the tentative plan as proposed by the Secretary or as modified with his consent, or (2) after agreeing to the tentative plan as so proposed or modified, does not, in the judgment of the Secretary carry out such tentative plan, the Secretary shall hold a public hearing upon the tentative plan. Notice of such hearing shall be given to the local authorities concerned by registered mail and notice shall be given to private organizations and private citizens within the area by publication in one or more newspapers. Local authorities, private organizations, and private citizens shall be permitted to participate in the hearing and present evidence and argument in favor of the tentative plan, in favor of amendments to the tentative plan, or in opposition to the plan or to any plan, but cumulative evidence may be excluded in the discretion of the Secretary. Anyone shall be permitted to file a written statement with the Secretary in addition to, or in lieu of, personal appearance at the public hearing.

(c) After the hearing provided in subsection (b) has been concluded, the Secretary shall prepare and issue an approved plan for eliminating segregation in public education in the State, municipality, school district, or other local governmental unit. He shall publish the approved plan in the Federal Register and in one or more newspapers in the area affected thereby and shall transmit a certified copy thereof to the appropriate official of the State, municipality, school district, or other local governmental unit involved.

(d) In order that the proceedings under this title shall expedite the elimination of segregation in any State, municipality, school district, or other local governmental unit, the Secretary shall handle all proceedings under this title as expeditiously as possible. The Secretary shall complete any proceedings hereunder within one year from the time that a tentative plan is forwarded to the governor, mayor, or other appropriate official under section 403(a), or, in case a State, municipality, school district, or other local governmental unit agrees to a tentative plan but does not carry it out, within six months from the time that the Secretary determines that such State, municipality, school district, or other local governmental unit is not carrying out such tentative plan.

SEC. 404. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1959, and for each of the four succeeding fiscal years, such amounts as may be necessary for carrying out the purposes of this title.

SEC. 405. The Secretary is authorized to carry out his responsibilities and exercise his authority under this title and under titles II and III through designated personnel in his own office or through any existing bureau, division, or agency of the Department of Health, Education, and Welfare or through a new office created by him for the special purpose of exercising the Secretary's responsibilities hereunder, except that the Secretary shall personally review and sign any approved plan issued under section 403(c).

TITLE V

AUTHORIZATION TO THE ATTORNEY GENERAL IN THE FIELD OF PUBLIC EDUCATION

SEC. 501. (a) Whenever (1) the Secretary has published in the Federal Register an approved plan for the elimination of segregation in public education in any State, municipality, school district, or other local governmental unit pursuant to section 403(c), (2) the State, municipality, school district, or other local governmental unit has rejected the plan or has refused or failed to act in accordance therewith, and (3) the Secretary has certified to the Attorney General that all efforts to secure compliance with the Constitution and the Supreme Court's decisions by conciliation, persuasion, education, and assistance under titles II, III, and IV have failed, the Attorney General of the United States is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against the appropriate officials of the State, municipality, school district, or other local governmental unit, and any individual or individuals acting in concert with such officials to enforce compliance with the approved plan.

(b) The Attorney General is authorized to move to dismiss or discontinue any action brought under subsection (a), or to propose or to agree to a decree adopting a plan for elimination of segregation in public education which is different from the approved plan, whenever he determines that the State, municipality, school district, or other local governmental unit is making, or is prepared to make, a prompt and reasonable start toward full compliance with the Constitution and the Supreme Court's decisions in the field of education and to work toward full compliance with all deliberate speed.

(c) Any interested party may, with the leave of the court, intervene in any action brought under subsection (a), and the court shall consider any proposals by the intervenors, as well as by the defendant or defendants, in determining its final decree.

TITLE VI

OTHER AUTHORIZATIONS TO THE ATTORNEY GENERAL

SEC. 601. (a) Whenever the Attorney General receives a signed complaint that any person or group of persons is being deprived of, or is being threatened with the loss of, the right to the equal protection of the laws by reason of race, color, religion, or national origin and whenever the Attorney General certifies that, in his judgment, such person or group of persons is unable for any reason to seek effective legal protection for the right to the equal protection of the laws, the Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or subdivision or instrumentality thereof, deprives or threatens to deprive such person or group of persons of the right to equal protection of the laws by reason of race, color, religion, or national origin and against any individual or individuals acting in concert with them.

(b) A person or group of persons shall be deemed unable to seek effective legal protection for the right to the equal protection of the laws within the meaning of subsection (a) not only when such person or group of persons is financially unable to bear the expenses of the litigation, but also when there is reason to believe that the institution of such litigation would jeopardize the employment or other economic activity of, or might result in physical harm or economic damage to, such person or group of persons or their families.

(c) Nothing contained in titles IV and V shall limit the authority of the Attorney General to institute and maintain an action under subsection (a).

SEC. 602. The Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for injunction or other order, (1) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder, any Federal, State, or local official from according any person or group of persons the right to the equal protection of the laws without regard to race, color, religion, or national origin, or (2) against any person or persons preventing or hindering, or threatening to prevent or hinder,

or conspiring to prevent or hinder the execution of any court order protecting the right to the equal protection of the laws without regard to race, color, religion, or national origin.

SEC. 603. The Attorney General is authorized, upon receipt of a signed complaint, to institute for or in the name of the United States, a civil action or other proceeding for preventive relief, including an application for injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom, or usage, of any State or territory or subdivision or instrumentality thereof, deprives or threatens to deprive any person or group of persons or association of persons of any right guaranteed by the fourteenth amendment of the Constitution because such person or group of persons or association of persons has opposed or opposes the denial of the equal protection of the laws to others because of race, color, religion, or national origin.

SEC. 604. Whenever a suit is brought in any district court of the United States seeking relief from the deprivation of the right of equal protection of the laws because of race, color, religion, or national origin, the Attorney General is authorized to intervene in such action with all the rights of a party thereto and to seek compliance with any lawful order issued by such district court.

TITLE VII

MISCELLANEOUS PROVISIONS

SEC. 701. The district courts of the United States shall have jurisdiction of proceedings instituted under sections 501, 601, 602, and 603 of this Act and shall exercise the same without regard to whether any administrative or other remedies that may be provided by law shall have been exhausted and, in the case of proceedings instituted under sections 601 and 602, without regard to whether any administrative proceeding is pending or contemplated under title IV, it being the purpose of title IV to expedite, not delay, the elimination of segregation in public education throughout the Nation. In any proceeding hereunder, the United States shall be liable for costs the same as a private person.

SEC. 702. Nothing in this Act or in any administrative proceeding hereunder shall be construed to impair any right guaranteed by the Constitution or laws of the United States or any remedies already existing for their protection or enforcement, nor to prevent any private individual or organization from acting to enforce or safeguard any constitutional right in any manner now permitted by law.

SEC. 703. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

[H.R. 5323, 86th Cong., 1st sess.]

A BILL To insure the equal protection of the laws to all persons regardless of race, color, religion, or national origin

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the Attorney General of the United States shall determine that any person or group of persons are being deprived of, or are being threatened with loss of, their right to the equal protection of the laws by reason of their race, color, religion, or national origin, and that such person or group of persons are unable for any reason to vindicate or to protect their right to the equal protection of the laws, the Attorney General is authorized to institute for or in the name of the United States, a civil action or other proceeding for preventive relief, including an application for injunction or other order, against any person or persons who, under color of any statute, ordinance, regulations, custom, or usage, of any State or Territory or subdivision or instrumentality thereof, deprives or threatens to deprive any person or group of persons of their rights to the equal protection of the laws by reason of their race, color, religion, or national origin.

SEC. 2. The Attorney General is hereby authorized, upon written request of the duly constituted authorities of any State or Territory or subdivision or instrumentality thereof, to institute for or in the name of the United States, a civil

action or other proceeding for preventive relief, including an application for an injunction or other order, against any person or persons preventing or hindering or threatening to prevent or hinder such duly constituted authorities from giving or securing to any person or group of persons their right to the equal protection of the laws.

SEC. 3. The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to sections 1 and 2 of this Act and shall exercise the same without regard to whether any administrative or other remedies that may be provided by the law shall have been exhausted. In any proceedings hereunder the United States shall be liable for costs the same as a private person.

SEC. 4. Nothing in this Act shall be construed as impairing any rights secured by the Constitution and laws of the United States, or any remedies already existing for their protection and enforcement.

[H.R. 6934, 86th Cong., 1st sess.]

A BILL To secure, protect, and strengthen the civil rights accruing to individuals under the Constitution and laws of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Human Rights Act of 1959".

TITLE I—ESTABLISHMENT OF COMMISSION ON CIVIL RIGHTS AS PERMANENT AGENCY

SEC. 101. Section 104 of the Civil Rights Act of 1957 is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) The Commission shall, not later than January 31 of each year, submit an annual report to the President and to the Congress setting forth its activities in carrying out the duties imposed by subsection (a), and its findings and recommendations with respect thereto, and shall, in addition, at such times as either the Commission or the President deems desirable, submit special reports to the President and to the Congress with respect to such activities, findings, and recommendations."

TITLE II—INVESTIGATION OF CIVIL RIGHTS CASES

SEC. 201. Part II of the Civil Rights Act of 1957 is amended by adding after section 111 a new section as follows:

"SEC. 112. The Attorney General shall increase the personnel of the Federal Bureau of Investigation of the Department of Justice to the extent necessary to provide for the effective discharge of the duties of such Bureau with respect to the investigation of civil rights cases under applicable Federal laws. The Director of the Federal Bureau of Investigation shall, with the approval of the Attorney General, include in the training of agents and other personnel of the Bureau appropriation training and instruction for the investigation of civil rights cases."

TITLE III—JOINT COMMITTEE ON CIVIL RIGHTS

SEC. 301. There is established a Joint Committee on Civil Rights (hereinafter called the "joint committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the joint committee shall as nearly as may be feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

SEC. 302. It shall be the function of the joint committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 303. Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original selection. The joint committee shall select a chairman and a vice chairman from among its members.

SEC. 304. The joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpoena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U.S.C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpoena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable. The cost of stenographic services to report hearings of the joint committee, or any subcommittee thereof, shall not exceed 40 cents per hundred words.

SEC. 305. Funds appropriated to the joint committee shall be disbursed by the Secretary of the Senate on vouchers signed by the chairman and vice chairman.

SEC. 306. The joint committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

TITLE IV—CRIMINAL LAWS, PROTECTING CONSTITUTIONAL RIGHTS, PRIVILEGES, AND IMMUNITIES

SEC. 401. Title 18, United States Code, section 241, is amended to read as follows:

"§ 241. Conspiracy against rights of citizens

"(a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than \$5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than \$1,000 or imprisoned not more than one year, or both; or shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 402. Title 18, United States Code, section 242, is amended to read as follows:

"§ 242. Deprivation of rights under color of law

"Whoever, under color of any law, statute, ordinance, regulation, or custom willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than \$1,000 or imprisoned not more than one year, or both; or shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 403. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

“§ 242A. Enumeration of rights, privileges, and immunities

“The rights, privileges, and immunities referred to in section 242 shall be deemed to include, but shall not be limited to, the following:

“(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

“(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

“(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

“(4) The right to be free of illegal restraint of the person.

“(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

“(6) The right to vote as protected by Federal law.”

SEC. 404. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE V—CRIMINAL LAWS RELATING TO CONVICT LABOR, PEONAGE, SLAVERY, AND INVOLUNTARY SERVITUDE

SEC. 501. Subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

“(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.”

SEC. 502. Section 1583 of such title is amended to read as follows:

“§ 1583. Enticement into slavery

“Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

“Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.”

SEC. 503. Section 1584 of such title is amended to read as follows:

“§ 1584. Sale into involuntary servitude

“Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.”

TITLE VI—PROHIBITION AGAINST DISCRIMINATION IN INTERSTATE TRANSPORTATION

SEC. 601. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in furnishing transportation in interstate or foreign commerce, and of all facilities furnished or connected with such transportation, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in

furnishing transportation of persons in interstate or foreign commerce or of any facility furnished or connected with such transportation, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed \$1,000 for each offense.

SEC. 602. It shall be unlawful for any common carrier engaged in furnishing transportation of persons in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance of such carrier on account of the race, color, religion, or national origin of such passengers. It shall be unlawful for any person operating any facility furnished or connected with transportation of persons in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against such passengers on account of the race, color, religion, or national origin of such passengers. Any such carrier, or officer, agent, or employee thereof, or any such person, or officer agent, or employee thereof, who segregates or attempts to segregate such passengers or otherwise discriminates against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed \$1,000 for each offense.

SEC. 603. For the purposes of this title, the facilities furnished or connected with the transportation of persons in interstate or foreign commerce include, but are not limited to, waiting rooms, restrooms, restaurants, lunch counters, and similar facilities, and taxicabs and limousines, operated to service passengers using the public conveyances of carriers engaged in furnishing transportation of persons in interstate or foreign commerce.

TITLE VII—FEDERAL EQUALITY OF OPPORTUNITY IN EMPLOYMENT ACT

SHORT TITLE

SEC. 701. This title may be cited as the "Federal Equality of Opportunity in Employment Act".

FINDINGS AND DECLARATIONS OF POLICY

SEC. 702. (a) The Congress hereby finds that, despite the continuing progress of our Nation, the practice of discrimination in employment against properly qualified persons because of their race, religion, color, national origin, or ancestry is contrary to the American principles of liberty and of equality of opportunity, is incompatible with the Constitution, forces large segments of our population into substandard conditions of living, foments industrial strife and domestic unrest, deprives the United States of the fullest utilization of its capacities for production, endangers the national security and the general welfare, and adversely affects the domestic and foreign commerce of the United States.

(b) The right to employment without discrimination because of race, religion, color, national origin, or ancestry is hereby recognized as and declared to be a civil right of all the people of the United States.

(c) The Congress further declares that the succeeding provisions of this title are necessary for the following purposes:

(1) To remove obstructions to the free flow of commerce among the States and with foreign nations.

(2) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States.

(3) To advance toward fulfillment of the international treaty obligations imposed by the Charter of the United Nations upon the United States as a signatory thereof to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion".

DEFINITIONS

SEC. 703. As used in this title—

(a) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, or any organized group of persons and any agency or instrumentality

of the United States, including the District of Columbia, or of any Territory or possession thereof.

(b) The term "employer" means a person engaged in commerce or in operations affecting commerce having in his employ fifty or more individuals; any agency or instrumentality of the United States, including the District of Columbia, or of any Territory or possession thereof; and any person acting in the interest of an employer, directly or indirectly; but shall not include any State or municipality or political subdivision thereof, or any religious, charitable, fraternal, social, educational, or sectarian corporation or association, if no part of the net earnings inures to the benefit of any private shareholder or individual, other than a labor organization.

(c) The term "employment agency" means any person undertaking with or without compensation to procure employees or opportunities to work for an employer; but shall not include any State or municipality or political subdivision thereof, or any religious, charitable, fraternal, social, educational, or sectarian corporation or association, if no part of the net earnings inures to the benefit of any private shareholder or individual.

(d) The term "labor organization" means any organization, having fifty or more members employed by any employer or employers, which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, terms or conditions of employment, or for other mutual aid or protection in connection with employment.

(e) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States; or between any State, Territory, possession, or the District of Columbia and any place outside thereof; or within the District of Columbia or any Territory or possession; or between points in the same State, the District of Columbia, or any Territory or possession but through any point outside thereof.

(f) The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce.

(g) The term "Commission" means the Equality of Opportunity in Employment Commission, created by section 706 hereof.

EXEMPTION

SEC. 704. This title shall not apply to any employer with respect to the employment of aliens outside the continental United States, its Territories and possessions.

UNLAWFUL EMPLOYMENT PRACTICES DEFINED

SEC. 705. (a) It shall be an unlawful employment practice for an employer—

(1) to refuse to hire, to discharge, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, religion, color, national origin, or ancestry;

(2) to utilize in the hiring or recruitment of individuals for employment any employment agency, placement service, training school or center, labor organization, or any other source which discriminates against such individuals because of their race, religion, color, national origin, or ancestry.

(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to properly classify or refer for employment, or otherwise to discriminate against any individual because of his race, color, religion, national origin, or ancestry.

(c) It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual or any employer because of the race, color, religion, national origin, or ancestry of any individual;

(2) to cause or attempt to force an employer to discriminate against an individual in violation of this section.

(d) It shall be an unlawful employment practice for any employer, employment agency, or labor organization to discharge, expel, or otherwise discriminate against any person, because he has opposed any unlawful employment practice or has filed a charge, testified, participated, or assisted in any proceeding under this title.

THE EQUALITY OF OPPORTUNITY IN EMPLOYMENT COMMISSION

SEC. 706. (a) There is hereby created a Commission to be known as the Equality of Opportunity in Employment Commission, which shall be composed of seven members who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, one for a term of six years, and one for a term of seven years, but their successors shall be appointed for terms of seven years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission. Any member of the Commission may be removed by the President upon notice and hearing for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noted.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the cases it has heard; the decisions it has rendered; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(e) Each member of the Commission shall receive a salary of \$15,000 a year.

(f) The principal office of the Commission shall be in the District of Columbia, but it may meet or exercise any or all of its powers at any other place and may establish such regional offices as it deems necessary. The Commission may, by one or more of its members or by such agents as it may designate, conduct any investigation, proceeding, or hearing necessary to its functions in any part of the United States. Any such agent, other than a member of the Commission, designated to conduct a proceeding or a hearing shall be a resident of the judicial circuit, as defined in title 28, United States Code, chapter 3, section 41, within which the alleged unlawful employment practice occurred.

(g) The Commission shall have power—

(1) to appoint, in accordance with the Civil Service Act, rules, and regulations, such officers, agents, and employees, as it deems necessary to assist it in the performance of its functions, and to fix their compensation in accordance with the Classification Act of 1949, as amended; attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court;

(2) to cooperate with and utilize regional, State, local, and other agencies;

(3) to furnish to persons subject to this title such technical assistance as they may request to further their compliance this title or any order issued thereunder;

(4) upon the request of any employer, whose employees or some of them refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or other remedial action;

(5) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to interested governmental and nongovernmental agencies; and

(6) to create such local, State, or regional advisory and conciliation councils as in its judgment will aid in effectuating the purpose of this title, and the Commission may empower them to study the problem or specific instances of discrimination in employment because of race, religion, color, national origin, or ancestry and to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population, and make recommendations to the Commission for the development of policies and procedures in general and in specific instances. Such advisory and conciliation councils shall be composed of representative citizens resident of the area for which they are appointed, who shall serve without compensation, but shall receive transportation and per diem in lieu of subsistence as authorized by section 5 of the Act of August 2, 1946 (5 U.S.C. 73b-2), for persons serving without compensation; and the Commission may make provision for technical and clerical assistance to such

councils and for the expenses of such assistance; the Commission may, to the extent it deems it necessary, provide by regulation for exemption of such persons from the operation of title 18 United States Code, sections 281, 283, 284, 434, and 1914, and section 190 of the Revised Statutes (5 U.S.C. 99); such regulation may be issued without prior notice and hearing.

PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

Sec. 707. (a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 705. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise: *Provided*, That an agreement between or among an employer and employers and a labor organization or labor organizations pertaining to discrimination in employment shall be enforceable in accordance with applicable law, but nothing contained therein shall be construed or permitted to foreclose the jurisdiction over any practice or occurrence granted the Commission by this title: *Provided further*, That the Commission is empowered by agreement with any agency of any State, Territory, possession or local government, to cede, upon such terms and conditions as may be agreed, to such agency jurisdiction over any cases or class of cases, if such agency, in the judgment of the Commission has effective power to eliminate and prohibit discrimination in employment in such cases.

(b) Whenever a sworn written charge has been filed by or on behalf of any person claiming to be aggrieved, or a written charge has been filed by a member of the Commission, that any person subject to the title has engaged in any unlawful employment practice, the Commission shall investigate such charge and if it shall determine after such preliminary investigation that probable cause exists for crediting such written charge, it shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion.

(c) If the Commission fails to effect the elimination of such unlawful practice and to obtain voluntary compliance with this title, or in advance thereof if circumstances warrant, the Commission shall have power to issue and cause to be served upon any person charged with the commission of an unlawful employment practice (hereinafter called the "respondent") a complaint stating the charges in that respect, together with a notice of hearing before the Commission, or a member thereof, or before a designated agent, at a place therein fixed, not less than ten days after the service of such complaint. No complaint shall issue based upon any unlawful employment practice occurring more than one year prior to the filing of the charge with the Commission and the service of a copy thereof upon the respondent, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces, in which event the period of military service shall not be included in computing the one-year period.

(d) The respondent shall have the right to file a verified answer to such complaint and to appear at such hearing in person or otherwise, with or without counsel, to present evidence and to examine and cross-examine witnesses.

(e) The Commission or the member or designated agent conducting such hearing shall have the power reasonably and fairly to amend any complaint, and the respondent shall have like power to amend its answer.

(f) All testimony shall be taken under oath.

(g) The member of the Commission who filed a charge shall not participate in a hearing thereon or in a trial thereof.

(h) At the conclusion of a hearing before a member or designated agent of the Commission, such member or agent shall transfer the entire record thereof to the Commission, together with his recommended decision and copies thereof shall be served upon the parties. The Commission, or a panel of three qualified members designated by it to sit and act as the Commission in such case, shall afford the parties an opportunity to be heard on such record at a time and place to be specified upon reasonable notice. In its discretion, the Commission upon notice may take further testimony.

(i) With the approval of the member or designated agent conducting the hearing, a case may be ended at any time prior to the transfer of the record thereof to the Commission by agreement between the parties for the elimination of the alleged unlawful employment practice on mutually satisfactory terms.

(j) If, upon the preponderance of the evidence, including all the testimony taken, the Commission shall find that the respondent engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person and other parties an order requiring such person to cease and desist from such unlawful employment practice and to take such affirmative action, including reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the discrimination), as will effectuate the policies of the Act: *Provided*, That interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. Such order may further require such respondent to make reports from time to time showing the extent to which it has complied with the order. If the Commission shall find that the respondent has not engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and caused to be served on such person and other parties an order dismissing the complaint.

(k) Until a transcript of the record in a case shall have been filed in a court, as hereinafter provided, the case may at any time be ended by agreement between the parties, approved by the Commission, for the elimination of the alleged unlawful employment practice on mutually satisfactory terms, and the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

(l) The proceedings held pursuant to this section shall be conducted in conformity with the standards and limitations of sections 5, 6, 7, 8, and 11 of the Administrative Procedure Act.

JUDICIAL REVIEW

SEC. 708. (a) The Commission shall have power to petition any United States Court of Appeals or, if the court of appeals to which application might be made is in vacation, any district court within any circuit or district respectively, wherein the unlawful employment practice in question occurred, or wherein the respondent resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court to which petition is made a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and the order of the Commission. Upon such filing, the court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10 of the Administrative Procedure Act.

(b) Upon such filing the court shall cause notice thereof to be served upon such respondent and thereupon shall have jurisdiction of the proceeding and of the question determined therein and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(c) No objection that has not been urged before the Commission, its member, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(d) The findings of the Commission with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive.

(e) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or agent, the court may order such additional evidence to be taken before the Commission, its member, or agent and to be made a part of the transcript.

(f) The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order.

(g) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals, if application was made to the district court or other United States court as hereinabove provided, and by the Supreme Court of the United States as provided in title 28, United States Code, section 1254.

(h) Any person aggrieved by a final order of the Commission may obtain a review of such order in any United States court of appeals of the judicial circuit wherein the unlawful employment practice in question was alleged to have been engaged in or wherein such person resides or transacts business or the Court of Appeals for the District of Columbia, by filing in such court a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith served upon the Commission and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding certified by the Commission, including the pleadings and testimony upon which the order complained of was entered and the findings and order of the Commission. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Commission under subsections (a), (b), (c), (d), (e), and (f), and shall have the same exclusive jurisdiction to grant to the Commission such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(i) Upon such filing by a person aggrieved the reviewing court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10 of the Administrative Procedure Act.

(j) The commencement of proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

(k) When granting appropriate temporary relief or a restraining order, or making and entering a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part an order of the Commission, as provided in this section, the jurisdiction of courts sitting in equity shall not be limited by the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932 (U.S.C., title 29, secs. 101-115).

(l) Petitions filed under this Act shall be heard expeditiously.

INVESTIGATORY POWERS

Sec. 709. (a) For the purpose of all investigations, proceedings, or hearings which the Commission deems necessary or proper for the exercise of the powers vested in it by this title, the Commission, or any member thereof, shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any investigation, proceeding, or hearing before the Commission, its member, or agent conducting such investigation, proceeding, or hearing.

(b) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States, including the District of Columbia, or any Territory or possession thereof, at any designated place of hearing.

(c) In case of contumacy or refusal to obey a subpoena issued to any person under this title, any district court within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring him to appear before the Commission, its member, or agent, there to produce evidence if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing.

(d) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpoena of the Commission, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt

from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

(e) Any member of the Commission, or any agent designated by the Commission for such purposes, may administer oaths, examine witnesses, and receive evidence.

(f) Complaints, orders, and other process and papers of the Commission, its member, agent, or agency, may be served either personally or by registered mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the same setting forth the manner of such service shall be proof of the same, and the return post-office receipt or telegraph receipt therefor when registered and mailed or telegraphed as aforesaid shall be proof of service of the same. Witnesses summoned before the Commission, its member, agent, or agency, shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(g) All process of any court to which application may be made under this title may be served in the judicial district wherein the defendant or other person required to be served resides or may be found.

(h) The several departments and agencies of the Government, when directed by the President, shall furnish the Commission, upon its request, all records, papers, and information in their possession relating to any matter before the Commission.

ENFORCEMENT OF ORDERS DIRECTED TO GOVERNMENT AGENCIES AND CONTRACTORS

SEC. 710. (a) The President is authorized to take such action as may be necessary (1) to conform fair employment practices within the Federal establishment with the policies of this title, and (2) to provide that any Federal employee aggrieved by any employment practice of his employer must exhaust the administrative remedies prescribed by Executive order or regulations governing fair employment practices within the Federal establishment prior to seeking relief under the provisions of this title. The provision of section 708 shall not apply with respect to an order of the Commission under section 707 directed to any agency or instrumentality of the United States, or of any Territory or possession thereof, or of the District of Columbia, or any officer or employee thereof. The Commission may request the President to take such action as he deems appropriate to obtain compliance with such orders.

(b) The President shall have power to provide for the establishment of rules and regulations to prevent the committing or continuing of any unlawful employment practice as herein defined by any person who makes a contract with any agency or instrumentality of the United States (excluding any State or political subdivision thereof) or of any Territory or possession of the United States, which contract requires the employment of at least fifty individuals. Such rules and regulations shall be enforced by the Commission according to the procedure hereinbefore provided.

NOTICES TO BE POSTED

SEC. 711. (a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the Commission setting forth excerpts of this title and such other relevant information which the Commission deems appropriate to effectuate the purposes of this title.

(b) A willful violation of this section shall be punishable by a fine of not less than \$100 or more than \$500 for each separate offense.

VETERAN'S PREFERENCE

SEC. 712. Nothing contained in this title shall be construed to repeal or modify any Federal, State, Territorial, or local law creating special rights or preference for veterans.

RULES AND REGULATIONS

SEC. 713. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable regulations to carry out the provisions of this title. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

(b) If at any time after the issuance of any such regulation or any amendment or rescission thereof, there is passed a concurrent resolution of the two Houses of the Congress stating in substance that the Congress disapproves such regulation, amendment, or rescission, such disapproved regulation, amendment, or rescission shall not be effective after the date of the passage of such concurrent resolution.

FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

SEC. 714. The provisions of section 11, title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties.

SEPARABILITY CLAUSE

SEC. 715. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of this title or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

EFFECTIVE DATE

SEC. 716. This title shall become effective sixty days after enactment, except that subsections 707 (c) to (l), inclusive, and section 708 shall become effective six months after enactment.

TITLE VIII—FEDERAL ANTILYNCHING ACT

SHORT TITLE

SEC. 801. This title may be cited as the "Federal Antilynching Act".

PURPOSES

SEC. 802. The Congress finds that the succeeding provisions of this title are necessary in order to accomplish the following purposes:

(a) To insure the most complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(b) To safeguard the republican form of government of the several States from the lawless conduct of persons threatening to destroy the systems of public criminal justice therein and threatening to frustrate the functioning thereof through duly constituted officials.

RIGHT TO BE FREE OF LYNCHING

SEC. 803. It is hereby declared that the right to be free from lynching is a right of all persons, whether or not citizens of the United States, who are within the jurisdiction of the United States. As to all such persons, such right accrues by virtue of the provisions of the Constitution of the United States. As to citizens of the United States, such right additionally accrues by virtue of such citizenship. Such right is in addition to the same or any similar right or rights they may have as persons within the jurisdiction of, or as citizens of, the several States, the District of Columbia, the Territories, possessions, or other areas within the exclusive jurisdiction of the United States.

DEFINITIONS

SEC. 804. (a) Whenever two or more persons shall knowingly in concert (a) commit or attempt to commit violence upon any person or persons or on his or their property because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by violence against person or property, any power of correction or punishment over any person or

persons in the custody of any governmental officer or employee or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, such persons shall constitute a lynch mob within the meaning of this title. Any such action, or attempt at such action, by a lynch mob shall constitute lynching within the meaning of this title.

(b) The term "governmental officer or employee", as used in this title, shall mean any officer or employee of a State or any governmental subdivision thereof, or any officer or employee of the United States, the District of Columbia, or any Territory, possession or other area within the exclusive jurisdiction of the United States.

PUNISHMENT FOR LYNCHING

SEC. 805. Any person, whether or not a governmental officer or employee, (a) who is a member of a lynch mob or (b) who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall, upon conviction, be fined not more than \$1,000, or imprisoned not more than one year, or both: *Provided, however*, That where such lynching results in death or maiming or other serious physical or mental injury, or in damage to property, constituting a felony under applicable State, District of Columbia, Territorial, or similar law, any such person shall, upon conviction, be fined not more than \$10,000, or imprisoned not more than twenty years, or both. A felony, for purposes of this section, shall be deemed an offense which, under applicable State, District of Columbia, Territorial, or similar law, is punishable by imprisonment for more than one year.

PUNISHABLE FOR KNOWING FAILURE TO PREVENT OR PUNISH LYNCHING

SEC. 806. Whenever a lynching shall occur, (a) any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or knowingly failed to make all diligent efforts to prevent the lynching, and (b) any governmental officer or employee who shall have had custody of a person or persons lynched and shall have neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, and (c) any governmental officer or employee who, in violation of his duty as such officer or employee, shall neglect, refuse, or knowingly fail to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding \$5,000 or by imprisonment not exceeding five years, or by both.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 807. The Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this title, whenever information on oath is submitted to him that a lynching has occurred, and (a) that any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent such lynching, has neglected, refused, or knowingly failed to make all diligent efforts to prevent such lynching, or (b) that any governmental officer or employee who shall have had custody of a person or persons lynched and has neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, or (c) that any governmental officer or employee, in violation of his duty as such officer or employee, has neglected, refused, or knowingly failed to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever.

AMENDMENT TO ANTIKIDNAPPING ACT

SEC. 808. The crime defined in and punishable under the Act of June 22, 1932, as amended (18 U.S.C. 1201, 1202) shall include knowingly transporting in interstate or foreign commerce, any person unlawfully abducted and held because of his race, color, religion, national origin, ancestry, language, or religion, or for purposes of punishment, conviction, or intimidation.

CIVIL ACTIONS FOR DAMAGES

SEC. 809. (a) Any person, or in the event of his death the next of kin of any person, who as the result of a lynching suffers death, physical or mental injury, or property damage shall be entitled to maintain a civil action for damages for such death, injury, or damage against—

(1) any person who violates section 806, 807, or 809 of this title in connection with such lynching;

(2) (A) the United States, or the District of Columbia, or any Territory, possession, or other governmental subdivision of the United States to which local police functions have been delegated and in which the lynching takes place; or

(B) the State or governmental subdivision thereof to which local police functions have been delegated and in which the lynching takes place.

In any action brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States, or against any State or governmental subdivision thereof, proof by a preponderance of evidence that any officers charged with preventing the lynching used all diligence and all powers vested in them for the protection of the property damaged, or of the person or persons killed or injured shall be an adequate affirmative defense. In any action brought pursuant to this section, the satisfaction of a judgment against any individual or governmental defendant shall bar further proceedings against any other individual or governmental defendant. Where recovery in any action brought pursuant to this section is based in whole or in part on death or on physical or mental injury, the judgment shall be not less than \$2,000.

(b) Where any action under this section is brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States, the action shall be brought and prosecuted by the claimant or claimants and any judgment recovered shall include reasonable attorney's fees.

(c) Any judge of the United States district court for the district in which any action under this section is instituted, or in which such action may have been transferred under the provisions of section 1404 of title 28 of the United States Code, may direct that such action be tried in any place in such district as he may designate.

(d) Any action brought pursuant to this section must be initiated within three years of the accrual of the cause of action.

SEVERABILITY CLAUSE

SEC. 810. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE IX—FEDERAL ANTI-POLL-TAX ACT

SEC. 901. This title may be cited as the "Federal Anti-Poll-Tax Act."

SEC. 902. When used in this title—

(a) The term "poll tax" shall be construed to include specifically, but not by way of limitation, any tax, however designated, which is, or at any time was, imposed, increased, accelerated, or otherwise unfavorably modified, as a direct or indirect prerequisite to or consequence of voting in a national election.

(b) The term "voting in a national election" shall mean voting or registering to vote in any primary or other election for President, Vice President, or elector or electors for President or Vice President, or for United States Senator or for Member of the House of Representatives.

SEC. 903. It shall be unlawful for any person, whether or not acting on behalf of any State or any governmental subdivision thereof or therein, to levy, collect, or require the payment of any poll tax, or otherwise interfere with any person's voting in any national election by reason of such person's failure or refusal to pay or assume the obligation of payment of any poll tax. Any such action by any such person shall be deemed an interference with the manner of holding such elections, an abridgment of the right and privilege of citizens of the United States to vote for such officers, and an obstruction of the operations of the Federal Government.

SEC. 904. In any action brought under section 1102 for preventive, mandatory, or declaratory relief based upon an alleged violation or threatened violation of this title, any appeal to the appropriate court of appeals and review thereof by the Supreme Court shall be heard expeditiously and shall, where practicable, be determined before the next national election in connection with which such violation or threatened violation is alleged.

SEC. 905. If any provision of this title or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the title and the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE X—PROTECTION OF MEMBERS OF ARMED FORCES

SEC. 1001. Section 1114 of title 18 of the United States Code is amended by striking out "officer or enlisted man of the Coast Guard" and inserting in lieu thereof "member of the Army, Navy, Air Force, Marine Corps, or Coast Guard."

TITLE XI—CIVIL ACTIONS AND EQUITABLE RELIEF

SEC. 1101. Any person who deprives an inhabitant of any State of any right, privilege, or immunity secured or protected by the Constitution or the laws of the United States shall be liable to such inhabitant, or to his estate, for damages sustained thereby and for injuries, including death, suffered by such inhabitant in the course of, or as a result of, the commission of the acts which constitute such deprivation.

SEC. 1102. Upon a showing that an inhabitant of any State is being deprived or is threatened to be deprived of any right, privilege, or immunity secured or protected by the Constitution or the laws of the United States, such inhabitant, or the Attorney General of the United States, in the name of the United States but for the benefit of such inhabitant, may commence and maintain an action for preventive, mandatory, or declaratory relief to prohibit or prevent such deprivation or such threatened deprivation.

SEC. 1103. The rights, privileges, and immunities secured or protected by the Constitution or laws of the United States referred to in sections 1101 and 1102 include the rights, privileges, and immunities protected under title 18 of the United States Code and all other criminal laws of the United States. In any action brought under section 1101 or 1102 upon an alleged violation of any provision of title 18 or of any other criminal law of the United States, it shall not be necessary to the commencement or maintenance of such action that any person against whom such action is brought has been convicted of violating such provision.

SEC. 1104. The district courts of the United States shall have jurisdiction of proceedings brought pursuant to sections 1101 and 1102 and shall exercise such jurisdiction without regard to whether the party aggrieved shall have exhausted any administrative or other remedies provided by law and without regard to the amount of the matter in controversy.

SEC. 1105. As used in this title—

(a) The term "district courts of the United States" means any district court as constituted by chapter 5 of title 28 of the United States Code and the United States court of any Territory or other place subject to the jurisdiction of the United States.

(b) The term "State" includes the Territories of the United States and the District of Columbia.

SEC. 1106. This title shall not apply to the rights, privileges, and immunities secured and protected by titles VII and VIII of this Act.

TITLE XII—SEPARABILITY

SEC. 1201. If any title of this Act or the application thereof to any person or circumstances is held invalid, the validity of the other titles of this Act and the application of such title to other persons and circumstances shall not be affected thereby.

[H.R. 6935, 86th Cong., 1st sess.]

A BILL To provide additional means of securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened, and that such infringements upon the American principle of freedom and equality endanger our form of government and are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded and which distinguishes it from the totalitarian nations. The Congress recognizes that it is essential to the national security and the general welfare that this gap between principle and practice be closed; and that more adequate protection of the civil rights of individuals must be provided to preserve our American heritage, halt the undermining of our constitutional guaranties, and prevent serious damage to our moral, social, economic, and political life, and to our international relations.

(b) The Congress, therefore, declares that it is its purpose to strengthen and secure the civil rights of the people of the United States under the Constitution, and that it is the national policy to protect the right of the individual to be free from discrimination based upon race, color, religion, or national origin.

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(1) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(2) To safeguard to the several States of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials.

(3) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or religion, in accordance with the undertaking of the United States under the United Nations Charter, and to further the national policy in that regard by securing to all persons under the jurisdiction of the United States effective recognition of certain of the rights and freedoms proclaimed by the General Assembly of the United Nations in the Universal Declaration of Human Rights.

(d) To the end that these policies may be effectively carried out by a positive program of Federal action the provisions of this Act are enacted.

SEC. 2. The Civil Rights Act of 1957 is amended by adding at the end thereof the following:

"PART VI—CREATION OF A JOINT CONGRESSIONAL COMMITTEE ON CIVIL RIGHTS

"SEC. 171. There is established a Joint Committee on Civil Rights (hereinafter called the "Joint Committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the Joint Committee shall as nearly as may be feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

"SEC. 172. It shall be the function of the Joint Committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

"SEC. 173. Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original selection. The Joint Committee shall select a Chairman and a Vice Chairman from among its members.

"SEC. 174. The Joint Committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpoena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U.S.C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpoena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the Joint Committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

"SEC. 175. Funds appropriated to the Joint Committee shall be disbursed by the Secretary of the Senate on vouchers signed by the Chairman and Vice Chairman.

"SEC. 176. The Joint Committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

"PART VII—PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION IN INTERSTATE TRANSPORTATION

"SEC. 181. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

"(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed \$1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U.S.C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

"SEC. 182. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed \$1,000 for each offense, and shall also be subject to suit by the injured person in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U.S.C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the

United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction."

SEC. 3. (a) Sections 241 and 242 of title 18, United States Code, are amended to read as follows:

"§ 241. Conspiracy against civil rights; interference with such rights

"(a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise of enjoyment of any right or privilege so secured, they shall be fined not more than \$5,000 or imprisoned not more than ten years, or both.

"(b) In any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than \$1,000 or imprisoned not more than one year, or both; or shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsection (a) and (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U.S.C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

"§ 242. Deprivation of rights under color of law

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or district to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than \$1,000 or imprisoned not more than one year, or both; or shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

(b) Chapter 13 of title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"§ 242A. Enumeration of certain civil rights

"The rights, privileges, and immunities referred to in section 242 of this title shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

(c) The analysis of chapter 13 of title 18, United States Code, immediately preceding section 241, is amended as follows:

(1) Strike out

"241. Conspiracy against rights of citizens."

and insert the following:

"241. Conspiracy against civil rights; interference with such rights."

(2) Immediately after

"242. Deprivation of rights under color of law."

insert the following:

"242A. Enumeration of certain civil rights."

SEC. 4. Section 1980 of the Revised Statutes (42 U.S.C. 1985) is amended by adding at the end thereof the following new paragraph:

"Fourth. The several district courts of the United States are invested with jurisdiction to prevent and restrain acts or practices which would give rise to a cause of action pursuant to the First, Second, and Third paragraphs of this section, and it shall be the duty of the Attorney General to institute proceedings to prevent and restrain such acts or practices."

The CHAIRMAN. The Chair wishes to make a statement. I have scheduled these hearings on civil rights out of the conviction that the country is eager to go forward with the work begun with the passage of the Civil Rights Act of 1957. Having moved one step forward, I believe that to stand still is to regress. We cannot afford the luxury of complacency nor indulge in the fear that supports the status quo at any price. To wish to move beyond the 1957 act, which I am proud to state bears my name, is not a mark of insensitivity to the heightened passions that already exist in any discussion of civil rights; but to delay action, I believe, is to encourage the increase of such passions. Let that which must be done be done so that the unity of the country be restored. Just so long as any one group of our citizens are deprived of their constitutional rights, just so long will the dissensions and passionate disagreements persist. That which is inevitable must ultimately be accepted. That inevitability of equal opportunity for all can only be recognized if written into statutory law. When a man is too poor, too frightened, too intimidated to bring action to preserve his civil rights, then the Government must be in a position to do it for him. I do not speak idly when I repeat that not to move forward is to regress. In the last session the Attorney General appeared before us in a plea to pass all of the administration's program, which included the now famous part III. This session part III is conspicuously absent from the administration program.

We have 31 bills before us. The very nature of these bills plainly bespeaks how very far we are from granting to all of our citizens equality of opportunity. It is time that the Government be given the legal means based upon statutory authority to insure such equality of opportunity. Presently the 14th amendment as to schools is enforced by judicial decree.

It is hoped that both the proponents and the opponents of civil rights legislation will approach the subject with clarity and precision, with absence of rancor and blame, with light and not heat, for I am sure that all desire what is best for the realization of our highest goals which we call the American way of life. The dearest and most cherished of our ideals which has stood for a symbol the world over of the American way is best set forth by providing a climate where all our

people will find open for them equality of opportunity, regardless of race, color, or creed. What each man does with this opportunity depends ultimately upon himself, but that opportunity must exist before any man can prove his worth.

I give here a brief analysis of the provisions of H.R. 3147 which I have offered.

Title I: This title contains a short title for the bill—"Civil Rights Act of 1959"—and findings by the Congress concerning racial segregation and the recent decisions of the Supreme Court in the field of public education. Recognition is made of the authority and responsibility under the fifth section of the 14th amendment to the Constitution of Congress to uphold the coordinate authority and responsibility of the judicial branch of the Government and that the right to the equal protection of the laws shall be guaranteed.

Title II: This title authorizes the Secretary of Health, Education, and Welfare to render technical assistance to States and other governmental units in order to eliminate denials of constitutional rights in the field of public education. It further authorizes the compilation and distribution of data, the making of surveys, the arrangements of conferences, the appointment of advisory councils, the provision of specialists services, and the development of community understanding for desegregation programs that are consistent with the provisions of the Constitution.

Provision is also made for appropriations up to \$2.5 million as a maximum in any fiscal year, for a period of 5 years.

Title III: This title authorizes the Secretary of Health, Education, and Welfare to make grants for school facilities in those areas where the main problem obstructing or preventing effective compliance is lack of adequate buildings or other physical equipment.

Grants are authorized for employing additional teachers, for the cost of giving teachers and other school personnel in-service training in dealing with problems incidental to desegregation, as well as the cost of employment of specialists in such problems. It also authorizes the grants to cover the costs directly related to the process of eliminating segregation in public schools. It authorizes grants to cover the cost of additional educational measures undertaken to eliminate segregation, while at the same time assuring that existing educational standards will not be lowered.

Funds are also made available to local communities that wish to comply with the Court's decision in school segregation cases, but where the State threatens to cut off funds or close the schools.

Appropriation is made of not more than \$40 million a year for a period of 5 years to cover the cost of grants under this title.

Title IV: This title provides that when other methods fail, the executive branch of the Government acting through the Secretary of Health, Education, and Welfare shall assume responsibility for initiating the development of desegregation plans to accomplish the objectives of the Court's decision. In the development of both tentative and approved plans there are express provisions for the fullest possible local consultation and participation. The appropriation is authorized for a 5-year period for such amounts as may be necessary to carry out the purpose of this title.

Title V: The bill provides for Federal assistance in legal remedies under title V. It confers the power to file civil actions in school cases in connection with the approved desegregation plans when the Secretary of Health, Education, and Welfare certifies that all efforts to secure compliance by conciliation, assistance, and otherwise have failed. The Attorney General is authorized to initiate civil action for preventive relief against appropriate officials of State or local governments as well as individuals to enforce compliance with an approved plan.

Title VI: This title authorizes the Attorney General to institute preventive action against those State and local officials and others acting under color of the law in cases involving a deprivation of equal protection generally. This includes school cases by reason of color, race, religion, or national origin. Provision is made that the Attorney General may sue only upon a signed complaint and when, in his judgment, the person aggrieved is unable to seek effective protection for himself.

Suits are also authorized by the Attorney General against those who attempt to prevent local officials from according individuals equal protection of the laws or those who act to interfere with the execution of court orders for equal protection.

Action to deprive persons of their rights under the 14th amendment because such persons are opposing denial of the rights of the courts is also made the basis for legal action by the Attorney General. Finally, the Attorney General is authorized to intervene in cases brought by courts for relief against the denial of equal protection of the laws because of race, color, religion or national origin.

Title VII: Confers jurisdiction upon the district courts of the United States of proceedings instituted under the provisions of this act, and it further provides that such jurisdiction shall be exercised without regard as to whether any administrative or court remedy authorized by law shall have been exhausted.

Mr. McCulloch.

STATEMENT OF HON. WILLIAM M. McCULLOCH, A REPRESENTATIVE IN CONGRESS FROM THE FOURTH CONGRESSIONAL DISTRICT OF THE STATE OF OHIO

Mr. McCULLOCH. Mr. Chairman and my colleagues of the committee, I have introduced the administration bill as outlined in the President's message to the Congress and I appear here today on behalf of that bill, it being H.R. 4457.

I introduced this omnibus measure in the House of Representatives on February 12. I chose that date because I thought it particularly appropriate for civil rights legislation to be introduced on the 150th anniversary of the birth of Abraham Lincoln. It was the best way I knew to reaffirm my belief, and, in my opinion, the belief of the Republican Party, in the principles of freedom and equality for which Lincoln, the Great Emancipator, gave the last full measure of his devotion.

Great progress has been made in recent years in the field of civil rights. From the momentous Brown decision in 1954, which signaled the coming end of segregation in public schools, to the enactment by

Congress in 1957 of the first civil rights legislation since Reconstruction days, there has been a steady march toward the goal of equality under the rule of law for all Americans.

But progress in civil rights depends not on laws and Supreme Court decisions alone. Even more necessary is the understanding and co-operation of men of good will—men from the North, East, and West, as well as from the South. Only through such understanding will the dream of full civil rights for everyone come true.

H.R. 4457, the administration bill, is designed to promote understanding at the same time it protects legal rights. Its aims and goals were ably set forth by President Eisenhower in his February 5 message. Because of its importance to the cause of civil rights and to an understanding of the administration program, I request Mr. Chairman that his message be reproduced in its entirety at this point in the record of these proceedings.

The CHAIRMAN. You may have that permission.

(Message from President on civil rights follows:)

[H. Doc. No. 75, 1st sess.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING RECOMMENDATIONS PERTAINING TO CIVIL RIGHTS

To the Congress of the United States:

Two principles basic to our system of government are that the rule of law is supreme, and that every individual regardless of his race, religion, or national origin is entitled to the equal protection of the laws. We must continue to seek every practicable means for reinforcing these principles and making them a reality for all.

The United States has a vital stake in striving wisely to achieve the goal of full equality under law for all people. On several occasions I have stated that progress toward this goal depends not on laws alone but on building a better understanding. It is thus important to remember that any further legislation in this field must be clearly designed to continue the substantial progress that has taken place in the past few years. The recommendations for legislation which I am making have been weighed and formulated with this in mind.

First, I recommend legislation to strengthen the law dealing with obstructions of justice so as to provide expressly that the use of force or threats of force to obstruct court orders in school desegregation cases shall be a Federal offense.

There have been instances where extremists have attempted by mob violence and other concerted threats of violence to obstruct the accomplishment of the objectives in school decrees. There is a serious question whether the present obstruction of justice statute reaches such acts of obstruction which occur after the completion of the court proceedings. Nor is the contempt power a satisfactory enforcement weapon to deal with persons who seek to obstruct court decrees by such means.

The legislation that I am recommending would correct a deficiency in the present law and would be a valuable enforcement power on which the Government could rely to deter mob violence and such other acts of violence or threats which seek to obstruct court decrees in desegregation cases.

Second, I recommend legislation to confer additional investigative authority on the FBI in the case of crimes involving the destruction or attempted destruction of schools or churches, by making flight from one State to another to avoid detention or prosecution for such a crime a Federal offense.

All decent, self-respecting persons deplore the recent incidents of bombings of schools and places of worship. While State authorities have been diligent in their execution of local laws dealing with these crimes, a basis for supplementary action by the Federal Government is needed.

Such recommendation when enacted would make it clear that the FBI has full authority to assist in investigations of crimes involving bombings of schools and churches. At the same time, the legislation would preserve the primary

responsibility for law enforcement in local law-enforcement agencies for crimes committed against local property.

Third, I recommend legislation to give the Attorney General power to inspect Federal election records, and to require that such records be preserved for a reasonable period of time so as to permit such inspection.

The right to vote, the keystone of democratic self-government, must be available to all qualified citizens without discrimination. Until the enactment of the Civil Rights Act of 1957, the Government could protect this right only through criminal prosecutions instituted after the right had been infringed. The 1957 act attempted to remedy this deficiency by authorizing the Attorney General to institute civil proceedings to prevent such infringements before they occurred.

A serious obstacle has developed which minimizes the effectiveness of this legislation. Access to registration records is essential to determine whether the denial of the franchise was in furtherance of a pattern of racial discrimination. But during preliminary investigations of complaints the Department of Justice unlike the Civil Rights Commission, has no authority to require the production of election records in a civil proceeding. State or local authorities, in some instances, have refused to permit the inspection of their election records in the course of investigations. Supplemental legislation, therefore, is needed.

Fourth, I recommend legislation to provide a temporary program of financial and technical aid to State and local agencies to assist them in making the necessary adjustments required by school desegregation decisions.

The Department of Health, Education, and Welfare should be authorized to assist and cooperate with those States which have previously required or permitted racially segregated public schools, and which must now develop programs of desegregation. Such assistance should consist of sharing the burdens of transition through grants-in-aid to help meet additional costs directly occasioned by desegregation programs, and also of making technical information and assistance available to State and local educational agencies in preparing and implementing desegregation programs.

I also recommend that the Commissioner of Education be specifically authorized, at the request of the States or local agencies, to provide technical assistance in the development of desegregation programs and to initiate or participate in conferences called to help resolve educational problems arising as a result of efforts to desegregate.

Fifth, I recommend legislation to authorize, on a temporary basis, provision for the education of children of members of the Armed Forces when State-administered public schools have been closed because of desegregation decisions or orders.

The Federal Government has a particular responsibility for the children of military personnel in federally affected areas, since armed services personnel are located there under military orders rather than of their own free choice. Under the present law, the Commissioner of Education may provide for the education of children of military personnel only in the case of those who live on military reservations or other Federal property. The legislation I am recommending would remove this limitation.

Sixth, I recommend that Congress give consideration to the establishing of a statutory Commission on Equal Job Opportunity Under Government Contracts.

Nondiscrimination in employment under Government contracts is required by Executive orders. Through education, mediation, and persuasion, the existing Committee on Government Contracts has sought to give effect not only to this contractual obligation, but to the policy of equal job opportunities generally. While the program has been widely accepted by Government agencies, employers, and unions, and significant progress has been made, full implementation of the policy would be materially advanced by the creation of a statutory commission.

Seventh, I recommend legislation to extend the life of the Civil Rights Commission for an additional 2 years. While the Commission should make an interim report this year within the time originally fixed by law for the making of its final report, because of the delay in getting the Commission appointed and staffed, an additional 2 years should be provided for the completion of its task and the making of its final report.

I urge the prompt consideration of these seven proposals.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, February 5, 1959.

Mr. McCulloch. With this background, I shall proceed to the consideration of specific provisions of the proposed Civil Rights Act of 1959.

(1) Title I would, for the first time, give congressional sanction to the Supreme Court's desegregation decisions by making it a Federal offense to wilfully interfere with the exercise of rights or the performance of duties under valid orders of United States courts in school desegregation cases. The lack of effective legal machinery to deal with obstructionists has been sorely felt by law enforcement officials. At the present time the Federal legal arsenal contains only the obstruction of justice statute (18 U.S.C. 1503), which is far too limited, and the contempt-of-court rule (rule 65d Federal Rules of Civil Procedure) which is far too restrictive, to be effective against mob violence.

Enactment of title I would alleviate this situation. It would furnish the Government a valuable enforcement tool upon which it could rely in dealing with those who would use force or threats of force to obstruct orderly and deliberate school integration.

(2) Self respecting citizens everywhere deplore the unwarranted use of force or violence. Especially is this true when the object of violence is an educational institution or a house of worship.

Recently however, the Nation has been shocked by a series of bombing incidents involving schools and churches. Title II would crack down on offenses of this nature by making it a Federal offense to cross State lines to avoid prosecution or confinement in such cases. It would also give the FBI authority to assist local authorities in the investigation and trackdown of offenders.

It is hoped that the combination of Federal, State, and local authorities, working together, will be able to effectively stamp out these deplorable offenses against human decency.

In passing, it should be noted that enactment of title II will not supplant or duplicate the primary law enforcement jurisdiction of local officials. It would constitute a supplementary enforcement weapon, with primary jurisdiction remaining where it belongs, and may I add where it should be exercised, in local hands.

(3) President Eisenhower has said, in effect, that the right to vote is the keystone of representative self-government. I could not agree with him more.

The Civil Rights Act of 1957 was aimed at protecting the basic right of all eligible citizens to vote in Federal elections. But the effectiveness of this legislation has been undermined. State voting records have, in certain cases, been withheld from Federal authorities investigating alleged franchise violations. Defeat of these attempts in the courts has triggered resort to more drastic means of avoidance. Pending or proposed in the legislatures of several States, I am informed, are bills to authorize the outright destruction of voting records soon after elections in order to prevent their falling into the hands of Federal investigators. Such measures bode no good for the cause of representative government.

Title III of my bill would nip these plans in the bud by requiring State election officials to retain and preserve all records and papers relating to elections involving candidates for Federal office for a period of 3 years. Such records would be made available to the At-

torney General for investigative purposes with criminal penalties provided for in the event of their being withheld or destroyed.

(4) The Civil Rights Commission was established in the 85th Congress. It was given only a little over 2 years to complete the job for which it was created.

But administrative difficulties delayed the organization and undertaking of the Commission. For this reason the President has recommended that the Commission be given an additional 2 years to complete its work.

Title IV will accomplish this purpose. It continues the Commission for the additional period and, pursuant to the President's suggestion, provides for the issuance of an interim report by September 1st of this year, in order to apprise the Congress and the President of activities undertaken to that date.

(5) Much has been accomplished in recent years by the Committee on Government Contracts in its efforts to promote equal job opportunities. Title V, in recognition of this excellent record, and looking to even more significant progress in the future, would promote the Committee to Commission status, with legislative stature and an independent existence of its own. The new 15 member Presidential Commission on Equal Job Opportunity under Government Contracts, will expand the work of its predecessor group to insure equal job opportunities in the performance of Government contracts for all Americans without regard to race, color, creed or national origin.

(6) A difficult problem has arisen in some areas where State-administered public schools are closed down because of desegregation decisions or orders. The Commissioner of Education is presently empowered to provide for the education of children of military personnel affected by such shutdowns. But this law contains a serious limitation on coverage. Only military personnel residing on military reservations or other Federal property are eligible for benefits. Such an exclusion is not justified under present conditions.

Title VI will remove this limitation, extending to the Commissioner the power to make temporary provision for all armed services children affected by the closing of their schools.

(7) Until comparatively recently, the law of the land permitted the maintenance of separate but equal school facilities for white and Negro children. The whole pattern of Southern education was founded upon this basis.

The Brown decision of 1954 however, changed all that. Under its terms, schools were required to be integrated with all deliberate speed.

But the process of conversion to a single system is a costly one. Sharing of the financial burdens of transition would seem fair and equitable and should help insure that steady progress will be made.

Title VII would accomplish this by making grants-in-aid and technical assistance and information available to the States for development of desegregation programs. In addition, upon request the Commissioner of Education would be empowered to initiate or participate in conferences dealing with the educational aspects of problems arising from the desegregation of public schools.

H.R. 4457 is no panacea for all of the civil rights problems which confront our Nation. But I am convinced it is a real step forward.

Its moderate and temperate approach will, I believe, enlist the support of thinking people everywhere.

It is a program of the golden mean which I sincerely recommend for favorable consideration by this subcommittee, by the full committee, and by the Congress of the United States.

The CHAIRMAN. Thank you very much, Mr. McCulloch. The Chair wants to place in the record a copy of Public Law 85-315 commonly known as the Civil Rights Act of 1957.

(Public Law 85-315 follows:)

PUBLIC LAW 85-315

85TH CONGRESS, H.R. 6127

SEPTEMBER 9, 1957

AN ACT To provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PART I—ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

Sec. 101. (a) There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission").

(b) The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. Not more than three of the members shall at any one time be of the same political party.

(c) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

(e) Four members of the Commission shall constitute a quorum.

RULES OF PROCEDURE OF THE COMMISSION

Sec. 102. (a) The Chairman or one designated by him to act as Chairman at a hearing of the Commission shall announce in an opening statement the subject of the hearing.

(b) A copy of the Commission's rules shall be made available to the witness before the Commission.

(c) Witnesses at the hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(d) The Chairman or Acting Chairman may punish breaches of order and decorum and unprofessional ethics on the part of counsel, by censure and exclusion from the hearings.

(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall (1) receive such evidence or testimony in executive session; (2) afford such person an opportunity voluntarily to appear as a witness; and (3) receive and dispose of requests from such person to subpoena additional witnesses.

(f) Except as provided in sections 102 and 105 (f) of this Act, the Chairman shall receive and the Commission shall dispose of requests to subpoena additional witnesses.

(g) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission evidence or testimony taken in executive session shall be fined not more than \$1,000, or imprisoned for not more than one year.

(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission is the sole judge of the pertinency of testimony and evidence adduced at its hearings.

(i) Upon payment of the cost thereof, a witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Commission.

(j) A witness attending any session of the Commission shall receive \$4 for each day's attendance and for the time necessarily occupied in going to and returning from the same, and 8 cents per mile for going from and returning to his place of residence. Witnesses who attend at points so far removed from their respective residences as to prohibit return thereto from day to day shall be entitled to an additional allowance of \$12 per day for expenses of subsistence, including the time necessarily occupied in going to and returning from the place of attendance. Mileage payments shall be tendered to the witness upon service of a subpoena issued on behalf of the Commission or any subcommittee thereof.

(k) The Commission shall not issue any subpoena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpoenaed at a hearing to be held outside of the State, wherein the witness is found or resides or transacts business.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 103. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of \$50 per day for each day spent in the work of the Commission, shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of \$12 in lieu of actual expenses for subsistence when away from his usual place of residence, inclusive of fees or tips to porters and stewards.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of \$12 in lieu of actual expenses for subsistence when away from his usual place of residence, inclusive of fees or tips to porters and stewards.

DUTIES OF THE COMMISSION

SEC. 104. (a) The Commission shall—

(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

(2) study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution; and

(3) appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

(b) The Commission shall submit interim reports to the President and to the Congress at such times as either the Commission or the President shall deem desirable, and shall submit to the President and to the Congress a final and comprehensive report of its activities, findings, and recommendations not later than two years from the date of the enactment of this Act.

(c) Sixty days after the submission of its final report and recommendations the Commission shall cease to exist.

POWERS OF THE COMMISSION

SEC. 105. (a) There shall be a full-time staff director for the Commission who shall be appointed by the President by and with the advice and consent of the Senate and who shall receive compensation at a rate, to be fixed by the President, not in excess of \$22,500 a year. The President shall consult with the Commission before submitting the nomination of any person for appointment to the provision of staff director. Within the limitations of its appropriations, the Commission may appoint such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U.S.C. 55a), but at rates for individuals not in excess of \$50 per diem.

(b) The Commission shall not accept or utilize services of voluntary or uncompensated personnel, and the term "whoever" as used in paragraph (g) of

section 102 hereof shall be construed to mean a person whose services are compensated by the United States.

(c) The Commission may constitute such advisory committees within States composed of citizens of that State and may consult with governors, attorneys general, and other representatives of State and local governments, and private organizations, as it deems advisable.

(d) Members of the Commission, and members of advisory committees constituted pursuant to subsection (c) of this section, shall be exempt from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99).

(e) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(f) The Commission, or on the authorization of the Commission any subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission as contained in section 102 (j) and (k) of this Act, over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman.

(g) In case of contumacy or refusal to obey a subpoena, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

APPROPRIATIONS

Sec. 106. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this Act.

PART II—TO PROVIDE FOR AN ADDITIONAL ASSISTANT ATTORNEY GENERAL

Sec. 111. There shall be in the Department of Justice one additional Assistant Attorney General, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall assist the Attorney General in the performance of his duties, and who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General.

PART III—TO STRENGTHEN THE CIVIL RIGHTS STATUTES, AND FOR OTHER PURPOSES

Sec. 121. Section 1343 of title 28, United States Code, is amended as follows:

(a) Amend the catch line of said section to read,

"§ 1343. Civil rights and elective franchise"

(b) Delete the period at the end of paragraph (3) and insert in lieu thereof a semicolon.

(c) Add a paragraph as follows:

"(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote."

Sec. 122. Section 1989 of the Revised Statutes (42 U.S.C. 1993) is hereby repealed.

PART IV—TO PROVIDE MEANS OF FURTHER SECURING AND PROTECTING THE RIGHT TO VOTE

Sec. 131. Section 2004 of the Revised Statutes (42 U.S.C. 1971), is amended as follows:

(a) Amend the catch line of said section to read, "Voting rights".

(b) Designate its present text with the subsection symbol "(a)".

(c) Add, immediately following the present text, four new subsections to read as follows:

"(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

"(c) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

"(e) Any person cited for an alleged contempt under this Act shall be allowed to make his full defense by counsel learned in the law; and the court before which he is cited or tried, or some judge thereof, shall immediately, upon his request, assign to him such counsel, not exceeding two, as he may desire, who shall have free access to him at all reasonable hours. He shall be allowed, in his defense to make any proof that he can produce by lawful witnesses, and shall have the like process of the court to compel his witnesses to appear at his trial or hearing, as is usually granted to compel witnesses to appear on behalf of the prosecution. If such person shall be found by the court to be financially unable to provide for such counsel, it shall be the duty of the court to provide such counsel."

PART V—TO PROVIDE TRIAL BY JURY FOR PROCEEDINGS TO PUNISH CRIMINAL CONTEMPTS OF COURT GROWING OUT OF CIVIL RIGHTS CASES AND TO AMEND THE JUDICIAL CODE RELATING TO FEDERAL JURY QUALIFICATIONS

SEC. 151. In all cases of criminal contempt arising under the provisions of this Act, the accused, upon conviction, shall be punished by fine or imprisonment or both: *Provided however*, That in case the accused is a natural person the fine to be paid shall not exceed the sum of \$1,000, nor shall imprisonment exceed the term of six months: *Provided further*, That in any such proceeding for criminal contempt, at the discretion of the judge, the accused may be tried with or without a jury: *Provided further, however*, That in the event such proceeding for criminal contempt be tried before a judge without a jury and the sentence of the court upon conviction is a fine in excess of the sum of \$300 or imprisonment in excess of forty-five days, the accused in said proceeding, upon demand therefor, shall be entitled to a trial de novo before a jury, which shall conform as near as may be to the practice in other criminal cases.

This section shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice nor to the misbehavior, misconduct, or disobedience, of any officer of the court in respect to the writs, orders, or process of the court.

Nor shall anything herein or in any other provision of law be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

SEC. 152. Section 1861, title 28, of the United States Code is hereby amended to read as follows:

“§ 1861. Qualifications of Federal jurors

“Any citizen of the United States who has attained the age of twenty-one years and who has resided for a period of one year within the judicial district, is competent to serve as a grand or petit juror unless—

“(1) He has been convicted in a State or Federal court of record of a crime punishable by imprisonment for more than one year and his civil rights have not been restored by pardon or amnesty.

“(2) He is unable to read, write, speak, and understand the English language.

“(3) He is incapable, by reason of mental or physical infirmities to render efficient jury service.”

SEC. 161. This Act may be cited as the “Civil Rights Act of 1957.”

Approved September 9, 1957.

The CHAIRMAN. The Chair wants to place in the record a compilation of the bills prepared by Mr. Foley, general counsel for the committee, on the various and varied bills that have been offered concerning civil rights.

(Compilation referred to follows:)

CIVIL RIGHTS LEGISLATION

H.R. 3147, 430, 461, 913, 3212, 5008, 5170, 5218, 5276 are identical bills which provide for aid to desegregated schools by HEW Department and authorize Federal legal assistance against deprivation of equal protection of the laws.

H.R. 300 and H.R. 2786 are identical to one another, but vary slightly from H.R. 3147.

H.R. 3148 provides Federal legal protection by the Attorney General of equal protection of the laws both for individuals and local governmental units. H.R. 5217 is an identical bill.

H.R. 400, 759, and 3090 are identical bills to one other and vary slightly from H.R. 3148.

H.R. 618, 2346, and 2479 are identical to one another and similar to H.R. 3148.

H.R. 4342 extends the life of the Civil Rights Commission to 4 years from date of enactment.

H.R. 2538 and 3659, identical bills, extend the Commission to January 2, 1961.

H.R. 4261 extends the terms of individual members of the Commission and broadens the general powers of the Commission.

H.R. 4169 and 4348 are identical bills and establish a statutory Commission to provide equal job opportunity under Government contracts.

H.R. 4457 contains the seven proposals of the administration for civil rights, that are (1) obstruction of court orders, (2) flight to avoid prosecution for destruction of educational or religious structures, (3) preservation of Federal election records which the Attorney General can procure, (4) Civil Rights Commission extended for 4 years from date of enactment, (5) sets up Commission on Equal Job Opportunity Under Government Contracts, (6) provides for the education of children of members of the Armed Forces, (7) grants assistance to State and local educational agencies to effectuate desegregation.

The provisions of this bill are identical with H.R. 4342, extending the life of the Commission; same as to H.R. 4169 and 4348 relating to the Commission on Equal Job Opportunity Under Government Contracts; same as to H.R. 4338 relating to Federal election records; same as to H.R. 4337 relating to obstruction of court orders.

H.R. 619 and 351 are omnibus civil rights bills touching upon such subjects as criminal civil rights laws, antilynch, FEPC, integration of Armed Forces and education, antipoll tax, banning segregation in transportation and housing, broadens the powers of the Civil Rights Commission, increases the manpower of the FBI for civil rights work, and establishes a Joint Congressional Committee on Civil Rights.

H.R. 353 is an antilynch bill similar to H.R. 914 and 1902, which are identical.

H.R. 5181 is practically identical to H.R. 353.

H.R. 352 amends 42 U.S.C. 1958 and authorizes the Attorney General to institute proceedings for any cause of action arising under this section of the law.

H.R. 400 authorizes the Attorney General to negotiate for equal protection of the laws, and upon failure to then institute legal action for the same.

H.R. 617 makes it a crime to practice discrimination in any public places of amusement, education, transportation, lodging, etc.

The CHAIRMAN. Our first witness this morning is a member of our committee, the distinguished member from the State of New York, the Honorable John V. Lindsay. Mr. Lindsay, we will be glad to hear from you.

STATEMENT OF HON. JOHN V. LINDSAY, A REPRESENTATIVE IN CONGRESS FROM THE 43d CONGRESSIONAL DISTRICT OF THE STATE OF NEW YORK

Mr. LINDSAY. Mr. Chairman, my appearance here is in support of H.R. 2346, legislation which I introduced. I ask that the bill be included in the record at this point or at the conclusion of my testimony. I also in this testimony support and endorse the statement made by the ranking member of the minority of this committee, Mr. McCulloch, speaking as he did on behalf of the administration in support of the civil rights legislation submitted to the Congress by the President and the Attorney General.

The CHAIRMAN. You don't ignore the statement of the chairman, do you?

Mr. ROGERS. He is just endorsing one at a time.

Mr. LINDSAY. I will come to that, Mr. Chairman. I will try to be very brief in this statement.

I appear before this committee with both deference—as I am a freshman Congressman who only recently has been privileged to become a member of this committee—and diffidence, as the subject matter that we are here dealing with is extraordinarily difficult. The whole question of civil rights should never be thought of as a sectional or regional problem, and there are none of us without guilt. The people of my city are very deeply interested, and they have strong views on this subject. I have an obligation therefore to place those views before the committee, and they are also my own views.

I should like to make it clear, however, that we in New York are not without sin in this regard. Although we pride ourselves in having exerted more leadership in this field over the years than perhaps any other State in the Union, there is no reason for us to be restful, smug, or self-satisfied.

The safeguarding of individual rights—the right to be treated with absolute equality before the law—to advance in life by reason of merit and ability alone, and without handicap by reason of color, race, religion, or origin, is far more a moral problem than it is a legal problem. A great educator and historian recently said this:

Law is founded upon morality, and morality finds its foundation in the moral integrity of the individual. Destroy this and we destroy morality. Destroy morality and we destroy law. These consequences follow upon one another in government just as surely as the progressive debasement of a currency brings about the collapse of an economy.

As you are well aware, part III of the Civil Rights Act of 1957, as it passed the House of Representatives, empowered the Department of Justice to initiate civil proceedings to protect any individual against impairment by State or local authorities of any constitutionally guaranteed right. This portion of the bill failed in the Senate. An

equivalent provision protecting voting rights did get by. The bill which I and others have now introduced is a modified and, I believe, improved version of the same part III which passed the House in 1957. The bill would permit the Attorney General to act, by way of civil injunction process in the Federal court upon a showing that the person about to be deprived of such a right is himself unable to prosecute a civil proceeding on his own behalf.

Now, I do not believe that this is drastic legislation or legislation which can legitimately claim to be an invasion of State rights or a threat to local autonomy. In fact, by giving the Department of Justice civil injunctive powers we recognize that criminal penalties, which have long been on the books covering the same area, are a less desirable remedy. How much better it is to present such matters to a civil court in advance of the threatened event, rather than suffer the pains of criminal prosecution after the damage has been done. This is not an area where criminal statutes have, in the long run, proven totally effective.

I point out further, which I am sure this committee knows, that this proposed legislation differs only slightly from the bill giving protection to voting rights which was contained in the 1957 act. My bill merely broadens the area of protection to include every constitutionally guaranteed right. When we are talking about the Bill of Rights and other rights safeguarded by the Constitution and its amendments, we don't single out any particular right as being senior in rank to any other. Whereas I am sure that all of us can think of one or two liberties that we would least like to lose above any other; in the sight of the law all rights and liberties found in the Constitution are of equal rank each with the other. Therefore, if the safeguarding of the right to vote, by giving the Attorney General civil enforcement powers, is important, it is equally important to safeguard every other right.

Under present law an individual may bring suit for civil injunctive relief to protect his civil rights, but in many cases such a person may not financially be able to begin proceedings. In some States antibarratry statutes make it difficult for those allegedly deprived of their rights to seek the help of others to get judicial redress. My bill would permit the Attorney General to act upon showing that the person about to be deprived is himself financially unable to prosecute a civil proceeding on his own behalf.

Now I should also like to spend just one minute commenting on the importance of enacting legislation which would extend the life of the Civil Rights Commission, established by the Civil Rights Act of 1957, extend its life to January 1961. I submitted a bill to accomplish this purpose, H.R. 3659, and I am happy to see that it is also part of the administration's program. Recently the Commission held hearings in my own city, New York, on the subject of discrimination in housing. The Commission did a superb job and brought forth, out into the open, the statements of a great many persons who had something to say on this subject. It was made clear, for example, that although great strides have been made in New York to eliminate discrimination in housing, there is still much to be done. The Commission has only begun to work on about a quarter of the tasks set for it and according to the best reports will have completed not more than

half of its assignments if we permit it to expire in November of this year. Although the Commission did not initially receive cooperation from local authorities in its Alabama investigation, the number of instances involving voting rights that it was able to examine made clear that the Commission should be continued so that persons who fear they are being deprived of their right to vote in any part of the country will have ample opportunity to press their complaints openly before a Federal fact-finding body empowered to make on-the-spot investigations.

In addition to the proposal to extend the life of the Civil Rights Commission, I strongly support the other portions of the administration's civil rights program. This is a careful, well-thought-out, and balanced program. The President and the Attorney General are to be highly commended for it. It is a moderate program and I should think it would receive early and favorable consideration by this committee. The fact that I would prefer to add to it an amendment to part III, such as I and others have offered, in no way derogates from the administration's program. I have also taken a somewhat different approach to the question of legislation designed to curb bombing of community facilities, but this question is before Subcommittee No. 3 of the Judiciary Committee, of which I am a member, and will be reviewed by me before that subcommittee.

In a period of time when we are pressing for the supremacy of the so-called rule by law, with its underlying principles of fairness and equal opportunity for all human beings, we must take care that what we do here holds high the torch of liberty as a shining example for all to see. We are all on trial and we suffer equally from our failure to act courageously in times of disagreement and strain.

I thank you.

The CHAIRMAN. Thank you very much, Mr. Lindsay. I would like to ask one or two questions if I may. Your suggested remedy in effect provides for an amended so-called part III, is that correct?

Mr. LINDSAY. Yes.

The CHAIRMAN. You know that part III of the civil rights bill has been eliminated from the administration's proposal but you would go beyond the administration's proposal and provide for part III in a modified form.

Mr. LINDSAY. The bill that I have introduced, Mr. Chairman, is an amendment to the part III which I would add to the administration's proposal.

The CHAIRMAN. Would you say your proposal with regard to part III is broader than part III as passed by the House?

Mr. LINDSAY. Somewhat broader.

The CHAIRMAN. You speak of constitutional rights. I take it that the part III you mention would cover the deprivation of civil rights at all levels in American life, such as education, transportation, housing, and so forth?

Mr. LINDSAY. That is correct.

The CHAIRMAN. It would be a very comprehensive bill?

Mr. LINDSAY. If you read the language of the bill I have submitted, the language reads that:

The Attorney General is authorized, upon written complaint or information on oath or affirmation of any person who is subject to or threatened with the loss of his right to equal protection by the laws by reason of race, color, religion,

or national origin, and who is unable because of financial inability or other reason effectively to prosecute a Federal civil proceeding on his own behalf, to institute for or in the name of the United States a civil action—

and so on. That simple language, "equal protection of the laws," is as broad as the Constitution is broad and is designed to insure that any right that is specified in the Constitution and embraced by the 14th amendment is safeguarded; in other words, that no State, or person acting under color of law within a State, or acting in co-operation with any group or conspiracy within a State, may deprive any individual of any right guaranteed by the Constitution.

The CHAIRMAN. As I understand it, we have enforcement of rights, educational wise, but only by way of judicial machinery, by the judicial branch of the Government; is that right?

Mr. LINDSAY. That is correct. Under the present law in a school case, for example, private citizens, individuals, must commence an action in a Federal court in order to safeguard their rights. The Attorney General is authorized or may come in as a friend of the court, and has often done so in past years, in support of the claim made by the petitioning group.

The CHAIRMAN. But in the final analysis it is the court that determines whether an injunction or other judicial process shall ensue; is that correct?

Mr. LINDSAY. That is correct.

The CHAIRMAN. You would expand that to provide for executive enforcement?

Mr. LINDSAY. Enforcement still rests with the court. I either do not understand your question, Mr. Chairman, or else I do not agree with it; one or the other.

The CHAIRMAN. This bill would provide for legislation that would permit the executive branch to proceed in addition—

Mr. LINDSAY. By way of the court and, presumably, if the court should sustain the Attorney General it would result in a decree.

The CHAIRMAN. In other words, as it is now, in order to get appreciable enforcement it is essential to go in almost every district or in every city or hamlet where there is a school board to enforce the provision, under the present law today, isn't that correct?

Mr. LINDSAY. No that is not correct. The Attorney General first must receive a petition by an individual or a group of individuals alleging that for good and substantial reasons they are unable themselves to prosecute an action in the Federal court.

The CHAIRMAN. That is your provision.

Mr. LINDSAY. That is correct.

The CHAIRMAN. I am speaking of the present-day situation.

Mr. LINDSAY. I am not sure I understand your question. Let me have your question now.

The CHAIRMAN. I say in the present situation in order to get appreciable desegregation the Attorney General has to start judicial proceedings in every jurisdiction, is that not correct?

Mr. LINDSAY. That is not the present status of the law or what occurs. Under your present arrangements the Attorney General is authorized to—

The CHAIRMAN. Put it this way: Private individuals may do it.

Mr. LINDSAY. Private individuals may do it. Now you are correct.

The CHAIRMAN. Would you say that that is satisfactory and that brings about appreciable results?

Mr. LINDSAY. I don't think that it is satisfactory and that is why I introduced H.R. 2346.

The CHAIRMAN. That is what I am driving at. In other words, the present situation is not satisfactory and you feel that there should be additional legislation so that we can bring about the desegregation as the Supreme Court announced, with deliberate speed, is that correct?

Mr. LINDSAY. That is correct.

The CHAIRMAN. Would you say 5 years having elapsed and the conditions as they are today in certain sections of the country that there has been an appreciable amount of desegregation?

Mr. LINDSAY. Well, the word "appreciable" means different things to different men. I would say that the strides that have been made have been appreciable thus far since the Brown decision in 1954.

The CHAIRMAN. Is it satisfactory?

Mr. LINDSAY. No, but there have been progress, it has been substantial and appreciable.

The CHAIRMAN. Any other questions?

Mr. ROGERS. Mr. Lindsay, I note that you start out with your first section where you authorize the Attorney General to take action, you say, "Upon written complaint or information on oath or affirmation." Now it would be necessary that they make this oath and file it with the Attorney General and then be in a position to go in and ask for preventive relief, is that correct?

Mr. LINDSAY. That is correct.

Mr. ROGERS. Directing your attention to the second paragraph on page 2 of your bill, H.R. 2346:

The Attorney General is hereby authorized, upon written request of the duly constituted authorities of any State or Territory, or municipality, subdivision, or instrumentality thereof—

Now why do you in one instance require an oath and in the other instance you do not?

Mr. LINDSAY. Well, under subparagraph (b) where you have a duly constituted subdivision of a State or Territory which admits that there has been a deprivation of a constitutionally protected right, you have a prima facie case of a violation of the 14th amendment. You begin with this hypothesis.

Mr. ROGERS. This says that—

the Attorney General is hereby authorized, upon written request of the duly constituted authorities of any State, or Territory, or municipality, subdivision or instrumentality thereof, to institute for or in the name of the United States, a civil action or other proceeding for preventive relief, including an application for an injunction—

Mr. LINDSAY. Yes.

Mr. ROGERS. The point that I am trying to get at is, What must they say to the Attorney General? Must they say that there are two or more persons conspiring to violate a civil right or threaten to violate a civil right or hinder such constituted civil authorities from carrying out the civil right? Must that be spelled out to the Attorney General before he takes the action?

Mr. LINDSAY. The written request, I think, would have to convince the Attorney General that a case has been made out by the local

authority. Let us take a specific example of a school board, a duly constituted local authority.

Mr. ROGERS. But a duly constituted local authority is in a State or Territory, or municipality, subdivision, or instrumentality thereof. Now would that mean that two members of a five-member school board could make the request to the Attorney General and the other three not wanting to make the request, would the Attorney General then be compelled to proceed under your provision?

Mr. LINDSAY. A school board is an instrumentality.

Mr. ROGERS. Yes.

Mr. LINDSAY. And it is duly constituted.

Mr. ROGERS. Yes.

Mr. LINDSAY. So that assuming that the school board as duly constituted should make a request, and I would assume it would have to be a request that was——

Mr. ROGERS. Next question; supposing that, as I indicated, two members of a five-member school board, two of them say, "Well, now, we know that civil rights are being violated. We are keeping people out of the school." And the other three say, "No, that isn't so. But we are not going to take any action and are not going to join with you in requesting action of the Attorney General."

My point is this, the Attorney General, can he proceed unless he has a majority vote of that school board, under your provision?

Mr. LINDSAY. You have raised a legal point that calls for an interpretation of the language. I would say yes, two members of the school board are duly constituted authorities and therefore they may petition the Attorney General to take action.

Mr. ROGERS. Take action?

Mr. LINDSAY. Let me say this, in order to illustrate what this is designed to do: Take a local school board which in good faith is attempting to comply with a specific decree or attempting to comply in other respects with the intent and purpose of the Brown case, and let us assume that there are elements in the community which together are obstructing what the school board is attempting to do. This school board would then be authorized and empowered to go to the Attorney General, even though the State government of the particular State might be hostile to such a move to petition the Attorney General to initiate civil proceedings in the court.

Mr. ROGERS. But in order for the Attorney General to institute proceedings, in your subparagraph (b) you must have a request from these constituted authorities. Otherwise he has no power to act.

Mr. LINDSAY. That is right. That is correct.

Mr. ROGERS. Why do you want to limit the Attorney General to a request from a constituted authority in face of the experience that we have in the school segregation cases?

Mr. LINDSAY. Of course you are going right to the reason why I suggest that this bill is moderate and modest legislation. What it does is to leave to the local community the responsibility for carrying out its own program and for the resolution of its own problems.

Mr. ROGERS. Yes, but——

Mr. LINDSAY. Wait a minute. If I may go on.

Mr. ROGERS. Go ahead.

Mr. LINDSAY. And it recognizes that it is fundamental that every citizen has the right to bring a civil action under our statutes in the courts for the protection of his civil rights. It recognizes further that there are some cases—and this is basic constitutional philosophy—that where a State or a citizen of a State either cannot or is not able to protect himself, then it is time for the Federal Government to take action. That is what this does.

Mr. ROGERS. But under the second section as I construe it, the Attorney General, before he can take any action needs a request, as you say, from a duly constituted authority of a State or a Territory or a subdivision, and in the absence of that request could the Attorney General proceed then to set aside a conspiracy?

Mr. LINDSAY. This gets back to the first part which is subparagraph (a), under which and assuming a person had been deprived of what he thought was a constitutionally protected right, and assuming further that he could not or would not dare to bring an action to protect that right, he himself then goes to the Attorney General.

Mr. ROGERS. Under your first section it authorizes, whenever an individual swears under oath and brings it to the Attorney General—

Mr. LINDSAY. Yes.

Mr. ROGERS. That his civil rights are threatened or he is being denied—

Mr. LINDSAY. He is the aggrieved person. That is where the person is under oath.

Mr. ROGERS. Then you authorize the Attorney General to proceed for limited relief, for an injunction.

Mr. LINDSAY. He already is possessed with criminal powers after the event.

Mr. ROGERS. And that is as far as you can go on that. But in your other section here as I see it is really your conspiracy and it says:

Against any two or more persons who conspire through violence, threats, or otherwise to prevent or hinder such duly constituted authorities from giving or securing to any person his right to equal protection of the laws.

The point I am trying to get at is why would you require that the request come from a duly constituted authority before the Attorney General can move?

Mr. LINDSAY. You are raising a question which lawyers—constitutional lawyers—have argued about for a long time.

Mr. ROGERS. No.

Mr. LINDSAY. Wait a minute. Your question is this: Is it not fundamental that the Federal Government is empowered to bring civil injunctive actions in the absence of any statute or enabling legislation to carry out and protect the purposes of the 14th amendment? Why do you need any statute? Why cannot the Attorney General go into court and say "Here is a threatened violation of the 14th amendment—a duly constituted body connected with the State is threatening to deprive A, B, and C of constitutionally protected rights—therefore hasn't the Federal Government the power to take action in this regard. There has been sufficient doubt about the power of the Federal Government to take such action in the absence of enabling legislation that through the course of time there has been built up a body of statutory law to do just that. This proposed legislation is an addition to that body of statutory law.

Mr. ROGERS. Would you have any objection to amending section (b) to provide that when in the opinion of the Attorney General a conspiracy existed that he could then proceed on his own without getting a request from the constituted State authorities?

Mr. LINDSAY. Again, being a practical fellow, I think that this bill is more consistent with the President's program to suggest to the several States that they take the first opportunity to work this problem out for themselves and what this does is to require that there be some demonstration that there is a refusal to act upon a specific case before the Attorney General will step in.

Mr. ROGERS. You don't think that the Governor of Alabama is going to make the request of the Attorney General, do you?

Mr. LINDSAY. No, but a local school board might.

Mr. ROGERS. But, if they might not, then where is the Attorney General?

The CHAIRMAN. The individual under part (a) has the right to do it. Don't forget this, too, that if you have an existing decree—in the cases we have been talking about I assume there has been no history of court action—if you have an existing decree outstanding and that decree is violated, then of course there is original power within the Attorney General to take such action as necessary to protect the jurisdiction of the court.

Mr. HOLTZMAN. Mr. Chairman.

The CHAIRMAN. Mr. Holtzman.

Mr. HOLTZMAN. Our colleague indicated in response to Mr. Roger's question that this would be more consistent with the President's program. Of course I do not place too much weight on this statement. I don't think it matters a great deal because the gentleman saw fit to enlarge the President's program a moment ago. I would like to say that the gentleman made a very fine statement. I agree with him that this is not a sectional problem and I would like to ask the gentleman whether he does not agree with me, nor is this a partisan problem. Does the gentleman agree with that?

Mr. LINDSAY. I do.

Mr. HOLTZMAN. I thank you, Mr. Chairman and I thank the gentleman.

Mr. TOLL. Mr. Chairman.

The CHAIRMAN. Mr. Toll.

Mr. TOLL. Did you introduce a bill relative to bombing?

Mr. LINDSAY. Yes.

Mr. TOLL. What is the number of that bill?

Mr. LINDSAY. The number of that bill is H.R. 1836 and it is before Subcommittee No. 3.

Mr. TOLL. Does it differ with respect to the provision embodying the place of trial that is in the administration's bill with respect to whether it will be tried locally or not?

Mr. LINDSAY. It is different in that the administration bill is a fugitive bill and my bill is not a fugitive bill.

Mr. TOLL. It is criminal?

Mr. LINDSAY. Yes, it is a criminal statute.

Mr. TOLL. Where will the trial take place? Locally?

Mr. LINDSEY. Locally.

Mr. TOLL. Thank you.

The CHAIRMAN. Thank you very much for a very fine statement, Mr. Lindsay. We are indebted to you.

Mr. LINDSEY. Thank you, Mr. Chairman.

The CHAIRMAN. Our next witness is a member of the committee, a Representative from the State of Virginia, our distinguished colleague the Honorable Richard H. Poff.

STATEMENT OF HON. RICHARD H. POFF, A REPRESENTATIVE IN CONGRESS FROM THE SIXTH CONGRESSIONAL DISTRICT OF THE STATE OF VIRGINIA

Mr. POFF. Mr. Chairman and my colleagues on the Committee of the Judiciary, I shall not address myself to the substance of the legislation bearing the civil rights label now pending before this committee. Rather, I shall, with deliberate self-control, restrict myself to an empirical analysis of its impact on human relations.

I proceed from the premise that it is, or by right should be, the policy of the Congress to foster racial accord. Stated in the negative, Congress has, or should have, no purpose to incite racial discord.

Passing from the basic premise to the first corollary, no man willingly submits to those who gratuitously attempt by force to impose upon him their own private notions of proper social behavior, and no right in the catalogue of civil rights is more precious than the individual's right to choose his own associates.

The second corollary, about which there can be no reasonable dispute, is that there is no civil right guaranteed by the Constitution for the infringement of which the Constitution does not guarantee an equivalent remedy.

The third corollary, and another which cannot be gainsaid, is that neither this Congress nor any other legislative body can legislate tolerance. The spirit of tolerance, intangible, subjective and intensely personal, springs from, and only from, the heart—never from statutory mandate. Indeed, a law considered punitive to a particular geographical sector of our Nation and therefore offensive to a vast segment of its people can only infester the heart and corrupt its spirit.

If this premise and these corollaries be valid, then what good cause can be served by new legislation spewed into the anxious atmosphere which the South must now breathe? Can it change men's hearts? Can it counterfeit tolerance? Can it manufacture human harmony?

For nearly 5 years Virginia fought honorably what she considered a righteous fight and finally, reluctantly but gracefully and without violence, yielded. Many of her citizens felt that she did so unavoidably; many felt that she did so needlessly. What Virginia has done cannot be undone, and even now she is striving to formulate a legislative program which will best accommodate her people to the realities of the exigency. How can she formulate a program, how can she accommodate her people, how can she meet this crisis while Congress is in the process of contriving a new crisis for her? Can Congress not declare a legislative moratorium, can we not make an armistice, can we not have a season of peace to bind up our wounds? Or must we forever submit to the tyranny of political expediency?

In Government as in private life, sometimes the best action is no action at all. This problem, which is only much aggravated by much

talk, does not require new legislation, police investigation, court prosecution or penal correction on the part of the Federal Government; rather, it requires on the part of the Federal Government patience, forbearance, and self-restraint. Never before has the Congress of the United States had such an opportunity to accomplish so much simply by doing nothing. That concludes my testimony, Mr. Chairman.

The CHAIRMAN. Mr. Poff, that is a very excellent statement but I want to take one or two exceptions to it, if I may. You said Congress cannot force anyone to behave properly. Can Congress force anyone not to behave improperly?

Mr. POFF. That is a question of semantics. Of course there would be no law if someone did not conceive it necessary to regulate human behavior, but I believe if you will examine the statement you will find that I said Congress cannot legislate tolerance.

The CHAIRMAN. Put it this way; we cannot legislate tolerance, but suppose the lack of tolerance or shall we say applied intolerance has been declared to be contrary to the Constitution what should Congress do then?

Mr. POFF. In this particularly critical time, Mr. Chairman, let me repeat and reemphasize, I think Congress should do nothing at all and let me say once again at this critical time Congress would serve a great humanitarian cause by declaring a legislative moratorium.

The CHAIRMAN. If you would admit that the schools of Virginia should be integrated I think we would be very happy to yield to your idea of an armistice or a moratorium. Do you believe that the schools of Virginia should be integrated?

Mr. POFF. My position on that is well known, Mr. Chairman. I do not choose to become involved in a protracted debate on that subject; and as I said in my opening statement, I do not choose to discuss the merits of the legislation. My appeal is that, for a season, let us leave the matter at rest.

The CHAIRMAN. We have more or less left it fairly at rest for a period of 5 years. I, for one, would be perfectly willing to leave it at rest for another 5 years, if that delay would mean integration at the end of that period; but if the delay is simply permitting the forces opposing integration to reconstitute themselves so that they can continue their intransigence or stimulate their truculence, I cannot see what good a moratorium or an armistice would do.

Mr. POFF. Mr. Chairman, I realize that it is difficult for a Member of Congress or, indeed, an individual citizen in one section of our great, common country to appreciate the psychological undertones and overtones with which this problem is plagued in other sections; but I, speaking as a Representative from one of the States principally affected, feel that I am somewhat called upon to make this empirical analysis—and believe me this is not a statement made with the hope that I can thereby convince you that you are wrong. It is made only with the hope that I can persuade this committee to understand the important humanitarian consequences of, on the one hand legislating the problem into greater complexity and, on the other hand, letting it lie at rest during a period of adjustment.

Mr. HOLTZMAN. Mr. Chairman.

The CHAIRMAN. Mr. Holtzman.

Mr. HOLTZMAN. I would like to see a moratorium against the spirit of intolerance and intransigence and then I don't think we would have any need for this legislation.

Mr. POFF. In response to that, may I suggest, Mr. Chairman, that really there is nothing more intolerant than an intolerance of intolerance. [Laughter.]

Mr. ROGERS. May I ask this?

The CHAIRMAN. Mr. Rogers.

Mr. ROGERS. I understand your moratorium, and you know the Civil Rights Commission was created in the last session of Congress and it will soon expire. Would your moratorium insist that it stay expired?

Mr. POFF. I recognize, Mr. Chairman, as a person who considers himself a realist, that the Congress doubtless will take some action in this field this year. In my judgment, the Congress likely will extend the life of this Commission, as all of us knew it would be extended when the legislation was first considered.

Mr. ROGERS. You talk about a moratorium. I would like to ask you, How far do you think the moratorium should go?

Mr. POFF. I think the moratorium should be completely exclusive.

The CHAIRMAN. You said that you were agreed that the Government initiated the difficulty by starting the suits. In the Brown case we find the suit started by an individual and not by the Government.

Mr. POFF. I do not recall having made that statement, Mr. Chairman.

The CHAIRMAN. I thought you did. I misunderstood you. But I will say in passing that these cases have been instituted by individuals in all these school suits and not by the Government.

Mr. POFF. In response, I might point out the obvious—that if the legislation sponsored by the chairman were enacted into law, the Government would then initiate prosecution of the suits.

Mr. MEADER. Mr. Chairman.

Mr. CHAIRMAN. Mr. Meader.

Mr. MEADER. I realize your statement does not include any of the discussion of the provisions of the various so-called civil rights bills, but I wonder if you would care to comment on the provisions of the Lindsay bill and the similar provision of the chairman's bill, title VI, authorizing the Attorney General to institute injunctive proceedings. Do you have any specific comments on that feature of the matter?

Mr. POFF. The gentleman may recall my discussion of the subject when it was under consideration in the 85th Congress. I could, if the gentleman considers it necessary, repeat substantially what I said then, but for a very carefully considered reason I would not choose to elaborate upon that particular subject at this particular point in the legislative process.

The CHAIRMAN. Well, we are very grateful to you, Mr. Poff. We always value your opinion. You have been very helpful to this committee and I have a very high regard for you personally and a great respect for you.

Mr. POFF. Thank you very much, Mr. Chairman. I appreciate your kindness.

The CHAIRMAN. There is one other distinguished Member of the House who was to appear tomorrow but he is in the room now—Mr.

Powell. Step forward and we will be glad to hear from you at this time.

**STATEMENT OF HON. ADAM C. POWELL, JR., A REPRESENTATIVE
IN CONGRESS FROM THE 16TH CONGRESSIONAL DISTRICT OF THE
STATE OF NEW YORK**

Mr. POWELL. Mr. Chairman and gentlemen of the committee, thank you for this opportunity. In the preface to Executive Order 9808 of December 5, 1946, authorized by our then President, the Honorable Harry S. Truman, establishing the President's Committee on Civil Rights, there are these words:

Whereas the preservation of civil rights guaranteed by the Constitution is essential to domestic tranquility, national security, the general welfare, and the continued existence of our free institutions; and whereas the action of individuals who take the law into their hands and inflict summary punishment and wreak personal vengeance is subversive of our democratic system of law enforcement and public criminal justice, and gravely threatens our form of government; and whereas it is essential that all possible steps be taken to safeguard our civil rights.

This established the preface to the President's Committee on Civil Rights.

Since Mr. Truman enunciated this policy, which provided the administrative authority for the assignment for the creation of the President's Committee on Civil Rights, we have witnessed the emergence from colonialism of numerous countries whose populations are primarily, exclusively colored peoples. Our country has faced numberless issues where our domestic race relation policies were conditioning factors. Their reactions to what we do here cannot be reduced to its moral context. The good will of these countries is important for political reasons, as revealed consistently and progressively on matters of controversy in the United Nations. The good will of these countries is urgent for economic reasons.

Our expanding economy and its future well-being is inextricably related to these countries which provide both materials and markets so necessary to material well-being and power balance, which is becoming increasingly vulnerable as Russia advances. The memorable statement included in the report to the effect that it is clear that in modern democratic society a man's freedom in this broader sense is not and cannot be absolute—nor does it exist in a vacuum—but instead is hedged about by the competing rights of others and the demands of the social welfare. In this context it is Government which must referee the clashes which arise among the freedoms of citizens, and protect each citizen in the enjoyment of the maximum freedom to which he is entitled. There is no essential conflict between freedom and Government. Bills of rights restrain Government from abridging individual civil liberties, while Government itself, by sound legislative policies, protects citizens against the aggressions of others seeking to push their freedoms too far. Thus in the Declaration of Independence:

Man is endowed by his creator with certain inalienable rights. Among these are life, liberty, and the pursuit of happiness. To secure these rights, governments are instituted among men.

God forgive us for delay in application of the sentiments of the Founding Fathers. Ignored by oppressors, time has now run out on

us. The tradition of equality in which some people were more equal than others is a luxury global conditions will not allow.

We are living in a period when nations are being driven into closer relationship so that what in the past was regarded as domestic is progressively and will meritably be narrowed, and what is considered international is being expanded. Events of the last few days with the consequent impact on the whole world is frightening in our nuclear age.

The state of race relations in our country, stalemated at points, deteriorating in others, has the net effect of creating a vacuum when solidity is urgent, when every positive resource should be at the command of our leaders charged with the responsibility of securing the world against ultimate destruction. I commend the committee for their action. I support whatever bills our chairman with his great record brings forward, but I would like to say that I believe the hour has arrived and is overdue when we should consider the whole civil rights picture as a permanent and not a piecemeal form of legislative approach, and I would like to urge consideration of my bill, H.R. 619. The bill or parts thereof here set forth in some form or another by other members have been presented to this body by other proponents of civil rights. My omnibus bill simply attempts to wrap up the issue into one package to provide a legal and congressionally approved working background. It has 11 parts, each part of which is a matter which has been before our body: the Civil Rights Committee, the Joint Committee on Civil Rights and Congressional Laws Protecting Constitutional Rights, Privileges, and Immunities, the prohibition against discrimination in transportation, congressional laws relating to convict labor, peonage, involuntary servitude, the FEPC, the Federal Antilynching Act, the Federal Antipolltax Act, and the bill with respect to the members of the Armed Forces are some advances.

I would like to suggest in the second place that the extension of the Civil Rights Commission is urgent and I would like to recommend that the Congressmen consider the permanency of the Commission. Not in the foreseeable future will problems incident to human relations become resolved to the point that study and investigation of new problems arising will not be called for.

The numerous favorable testimonies before the committee have all emphasized the necessity and urgency, the techniques in general, terms, and legislation establishing congressional authority.

The issue boils down to exercise of congressional and administrative powers to implement measures for fullest benefit of citizens.

Congress should enact a measure giving the President emergency power in field of race relations.

A long-term campaign of public education to inform the people of the civil rights to which they are entitled and which they owe one another that people may be rallied to the support of the continuing program to strengthen civil rights that we may drive home to the public the nature of our heritage, the justification of civil rights, and the need to end prejudice which requires the cooperation of the Federal, State, and local governments and of private agencies with permanent Commission on Civil Rights taking leadership in serving as coordinating body with activities of permanent Commission expressly authorized by Congress and funds specifically appropriated for them.

The report of 1946 recommended the establishment by an act of Congress of Executive order of a unit of Federal Bureau of the Budget to review execution of all Government progress; the execution of all Government funds for compliance with the policy of non-discrimination.

Since issuance of report, to secure these rights, many gains have been made from January to September 1947—many of recommendations now in actual practice—and there is now still much to be done.

The United States is not so strong, the triumph of the democratic ideal is not so inevitable, that we can ignore what the world thinks of us or our record.

And although it is not before this committee, I would like to point out that as a member of this body I presented the so-called Powell amendment to educational bills in the past and I intend to amplify this and present them on bills where Federal funds are being appropriated, including the housing bill before you now. When I presented this Powell amendment in the beginning it was new and in the past few months we have seen the Attorney General, Mr. Rogers, urging that the President himself by Executive order prevent the funds from going to those school districts in defiance of the Supreme Court's decision. It has been my opinion all along that the Powell amendment is totally unnecessary if the President would issue the order to the Department of Health, Education, and Welfare to keep them from appropriating funds to those areas and districts in the defiance of the Supreme Court decision.

As of March 2 I have received a memorandum from the Legislative Reference Service in the Library of Congress in reference to Central High School in Little Rock in which they said that under Public Law 874 the grants to the educational system in Little Rock have been curtailed due to the closing of that school. It is my position that if they can curtail funds due to the closing of a school which is in defiance of the Supreme Court, they can curtail funds and they can close schools in any area where a school district is in defiance of the law.

I would like to say, finally, that this problem is not sectional. It is just as acute—or in some areas it is more acute in the North than some areas of the South. I think we should approach the problem feeling that it is not sectional—approach it on a national basis. Thank you for this opportunity.

The CHAIRMAN. I notice you advocated that this Civil Rights Commission be made permanent. Someone once said that a Commission is the appointment by the unwilling of the unknowing to do the unnecessary. Now you want to make that Commission permanent.

Mr. POWELL. I believe it should be permanent; yes, sir.

The CHAIRMAN. Do you think that the Commission has done, up to this point, a good or fair or bad job?

Mr. POWELL. Well, if there are any criticisms to be leveled at the Commission, I think that the responsibility for these criticisms rests with us in that we delayed appropriations and we did not give them an opportunity to go to work during the time specified. But I do not believe that a temporary Commission is adequate for the problems that are before us in our country; that it is a permanent situation and I believe that we should have a permanent Civil Rights Commission.

The CHAIRMAN. Don't you think that some of these bills that are set forth, if they were enacted into law, would empower the Secretary

of Health, Education, and Welfare to do a great many things, and that that would be sufficient without the Commission?

Mr. POWELL. No, I do not because there are other areas outside of Health, Education, and Welfare. There is the matter of the protection of the rights of the men of the Armed Forces. You, yourself, authored the very notable legislation in the field of the Coast Guard, but I think this should be extended to the other areas, such as public housing.

The CHAIRMAN. We did not need a Commission to point out the error there. We have bills to provide for that in the Coast Guard now. Those bills are pending before this committee now. We did not need the Civil Rights Commission about that.

Mr. POWELL. That is true, but I do think that a Civil Rights Commission on a permanent basis could strengthen this Congress by the holding of hearings as a nonlegislative body.

The CHAIRMAN. I refer you to H.R. 617 and I direct your attention to page 2 of that bill. I will read it.

Mr. POWELL. What line is that?

The CHAIRMAN. I will read from line 3 on page 1:

That any person who, under color of any State law, or otherwise, shall make any distinction, discrimination, segregation, or restriction on account of race, color, creed, or national origin, with respect to the admission of any individual to, or the accommodation or service of any individual in, any public conveyance on land or water or in the air, any place of public accommodation, resort, entertainment, or amusement—

What do you mean by the words “make any distinction, discrimination, segregation, or restriction”?

Mr. POWELL. Or “cause the making of any such distinction.”

The CHAIRMAN. You provide for criminal penalties. When you use the word “distinction” it is a vague term.

Mr. POWELL. The “making of any such distinction, discrimination, segregation, or restriction, shall for each such offense be liable” refers to the making of such distinction with respect to color or national origin. To post a sign, for instance, saying Mexicans here and colored there and white over there that is “making such distinctions.”

The CHAIRMAN. What would be our authority to go as far as that?

Mr. POWELL. The authority would be as in all civil rights bills and as I presume the ultimate goal: the wiping out of the distinction between our citizens on the basis of race, creed, color, or national origin so that they will have equality in all public places.

The CHAIRMAN. What will be our authority to enforce what you call distinction?

Mr. POWELL. The authority to enforce it?

The CHAIRMAN. Yes.

Mr. POWELL. The authority to keep any form of distinction from being enforced.

The CHAIRMAN. Are there any questions? ? I understand Mr. Foley would like to ask a question.

Mr. FOLEY. Would you go back to your reference to the Attorney General requesting the President by Executive order to cut off school funds?

Mr. POWELL. Yes. We have read this in the public press during the past 2 or 3 months.

Mr. FOLEY. You do not have a specific source for that?

Mr. POWELL. No, I do not. Only in the public press. Repeatedly there seems to be a conflict between the President and the Attorney General's Office. We have read that in the press, I am sure all of us have, that the Attorney General is requesting the President to cut off Federal funds in those school districts that are in defiance of the Supreme Court decision, but I have no authority for it that I can introduce.

Mr. McCULLOCH. Mr. Chairman.

The CHAIRMAN. Mr. McCulloch.

Mr. McCULLOCH. You did not discuss this subject with the Attorney General or any authorized representative in his office?

Mr. POWELL. No, I did not.

Mr. McCULLOCH. One more question, Mr. Chairman.

The CHAIRMAN. Yes.

Mr. McCULLOCH. Do you know if there is any precedent in State law for the substance of your bill H.R. 617 about which the chairman has just been inquiring?

Mr. POWELL. I have not compared this bill with any specific State laws, but knowing civil rights laws as regards public conveyances and places of public accommodation in New York and also in New Jersey, the philosophy is about the same.

Mr. TOLL. Mr. Chairman.

The CHAIRMAN. Mr. Toll.

Mr. TOLL. Is there any authority in the President to withhold appropriated funds?

Mr. POWELL. Oh, yes, indeed. The President can instruct any department to withhold appropriated funds, and it has been done. This has been one of the questions before us during the past 3 years, ever since we started this so-called Powell amendment we have repeatedly requested the President and the Secretary of the Department of Health, Education, and Welfare that they withhold the funds, and we have repeatedly received replies from the individuals stating, or their representatives, that they are waiting for Congress to do it, but we know that there is authority for it. The President has the authority to withhold funds from any agency or direct any agency to withhold funds, lacking a directive from Congress to the contrary.

Mr. McCULLOCH. Mr. Chairman.

The CHAIRMAN. Mr. McCulloch.

Mr. McCULLOCH. Of course we know from time to time the Chief Executive has withheld duly authorized and appropriated funds. I would like the record to show that I would not want that to become a general practice in this country, because, if it did, the authority, the obligation, and the responsibility of Congress would be seriously curtailed if not utterly destroyed.

Mr. TOLL. May I ask a question, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. TOLL. In the case of defense appropriations where the Executive determines where it is needed, and whether it is needed or not, isn't that the authority?

Mr. ROGERS. The Air Force did not and they tell me they cut it off.

The CHAIRMAN. Are there any other questions? If not, thank you very much, Mr. Powell.

Mr. POWELL. Thank you for the opportunity of appearing before your committee, Mr. Chairman.

The CHAIRMAN. At this point in the record we will insert the statement of our colleague, the Honorable Isidore Dollinger.
(Statement of Hon. Isidore Dollinger follows:)

STATEMENT OF HON. ISIDORE DOLLINGER, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF NEW YORK

Mr. Chairman and members of the Committee on the Judiciary, the need for stronger, effective, civil rights legislation is more apparent than ever. Since your committee last considered civil rights legislation, denials of such rights because of color, race, religion, and national origin, have been rampant. The time for moderation and compromise is past; we must end the unconscionable discrimination, harrassment, intimidation, and other human indecencies which are being inflicted upon a vast segment of our population.

Civil rights, the denial of such rights, continue to be of great concern to me. I have again reintroduced my many bills dealing with various phases of the subject and I will not take the time to enumerate them, as your committee is fully cognizant of my efforts through the years. I do repeat, however, that we cannot claim to have true democracy in our country, equality of man, equality of opportunity, freedom as guaranteed by our Constitution, until every vestige of discrimination because of race, color, or religion, is abolished.

One of my bills which you scheduled for hearing is H.R. 759, to provide further means of securing and protecting the right of persons within the jurisdiction of the several States to the equal protection of the laws and other civil rights guaranteed by the Constitution or laws of the United States. It enlists the powers and influence of the Attorney General in a determined attack upon denials of civil rights. It perfects the procedure by which civil rights may be vindicated. My bill provides a workable solution to many serious problems. The Federal Government must act to assure persons discriminated against or denied their constitutional rights, the assistance and protection they need.

You also scheduled for hearing, by bill (H.R. 1902) for the better assurance of the protection of citizens of the United States and other persons within the several States from mob violence and lynching, and for other purposes. We need only recall the Little Rock incidents, the bombings of places of worship, the terrible threats against innocent persons and groups of persons, to recognize that the protection afforded by my bill is necessary, if innocent persons are to be saved from mob hysteria and unfounded hatred which have at their roots the evils of discrimination.

Your committee has before it many bills on civil rights. I am pleased, Mr. Chairman, that you scheduled hearings early in this session of Congress, and I hope your prompt action presages passage of a strong civil rights bill during the present session. I wish to take this opportunity to state that I also favor your bill, Mr. Chairman, which would give Federal technical and financial help to communities that want to integrate their schools.

You have a grave responsibility and a great decision to make in this matter of civil rights. Every right-thinking American looks to you to discharge that responsibility fairly and wisely. I trust that you will vote out a bill of which we can be proud and which will restore, to some extent at least, the prestige which we have lost as a Nation because of our present undemocratic practices.

The CHAIRMAN. We will adjourn at this time and we will resume the hearings tomorrow to hear additional Members of the House. The plan is to continue the hearings next Wednesday, Thursday, and Friday, and we will hear from the Attorney General, the Department of Labor, and other interested agencies, as well as Members of the Senate.

The committee will now stand adjourned until tomorrow morning at 10 o'clock.

(Whereupon, at 11:45 a.m., the subcommittee recessed, to reconvene at 10 a.m., Thursday, March 5, 1959.)

CIVIL RIGHTS

THURSDAY, MARCH 5, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:10 a. m., in room 346, Old House Office Building, Hon. Emanuel Celler (chairman) presiding.

Present: Representatives Celler, Rodino, Rogers, Holtzman, Toll, McCulloch, and Miller.

Also present: William R. Foley, general counsel, and Richard C. Peet, associate counsel.

The CHAIRMAN. The committee will come to order. Our first witness this morning is our distinguished colleague from the State of Illinois, the Honorable William L. Dawson. We are very happy to hear from you, Mr. Dawson.

Mr. DAWSON. I have a prepared statement which I think has been distributed, Mr. Chairman. Shall I proceed?

The CHAIRMAN. Yes; you may proceed.

STATEMENT OF HON. WILLIAM L. DAWSON, A REPRESENTATIVE IN CONGRESS FROM THE FIRST CONGRESSIONAL DISTRICT OF THE STATE OF ILLINOIS

Mr. DAWSON. Mr. Chairman and members of the Committee on the Judiciary, the civil rights bills which you are now considering emphasize the great problem—perhaps the greatest domestic problem—facing our country today, that of protecting and enforcing the constitutional rights of all persons to the equal protection of the laws. These are crucial bills. What the Congress does on these bills may well set the tone of constitutional rights in this country for years to come.

The distinguished chairman of the Judiciary Committee has indeed performed a great public service in calling these hearings.

The CHAIRMAN. May I interrupt at that point? My colleagues on the committee were just as anxious as I was to hold these hearings, and they have participated with me wholeheartedly in connection with them.

Mr. DAWSON. I appreciate that, sir. I included them also when I referred to the chairman. I hope that these hearings will serve to expedite congressional action on these bills and the enactment of a vigorous program for the protection and enforcement of the constitutional rights of every individual in our country to be free of discrimination based upon race, religion, ancestry, color, or place of origin.

I consider it a great privilege to have been invited to present to you my views on the bill which I have introduced (H.R. 300) and the other various civil rights bills pending before the House Committee on the Judiciary.

The outstanding characteristic of the racial problem in the United States is that those seeking to preserve the discredited system of racial segregation, and its inevitable consequences of caste, second-class citizenship, and degrading and harmful discrimination, are damaging our country by their flouting of the law, by their use of coercion, intimidation, and violence, and by their misuse of governmental power.

Law-abiding citizens, both white and colored, are being harassed, subjected to economic pressures, social ostracism, and physical harm. They are being denied the use of public facilities and the exercise of the civic rights that freemen in a free society are entitled to.

These evils are compounded by the many hundreds of State laws, local ordinances, and administrative actions that have been devised with the deliberate intention to nullify the Constitution of the United States.

All sorts of schemes have been created, some blunt and obvious, and some subtle and ingenious, to prevent and hinder the desegregation of public facilities. Complicated plans have been devised for assignment of pupils, for denial of State funds to desegregated schools, and for punishing public officials who do not fully enforce segregation. We have seen innumerable obstacles purposely established to impede the efforts of those seeking unsegregated education and the use of public facilities; to harass those who would help colored children to assert their constitutional rights; and to silence those who believe in compliance with the American ideal of equality under the Constitution.

The extremes to which the defenders of segregation are going is illustrated by the laws which several States have enacted repealing the compulsory school attendance laws, and ordering the closing of public schools, which have been desegregated by court order. We have seen thousands of children locked out of their public schools in Little Rock, Ark., and in Norfolk, Charlottesville, and Warren County, Va., simply because a few Negro children, after long and arduous efforts including court litigation all the way to the Supreme Court of the United States, were finally able to obtain court orders protecting their constitutional rights to unsegregated education.

We have seen desperate attacks upon the basic rights of free speech, free assembly, and freedom of thought of all Americans, white as well as colored. The tensions, disturbances and hates which are being fomented by those who would deny to colored people their rights as Americans, are harmful to our entire Nation.

They are also harmful to us in our relations with the rest of the world. Every incident of racial violence, school closing, segregation, and other types of discrimination against colored people, is headlined in the newspapers throughout the world. How can those countries, especially those with substantial colored populations, give credence to our ideals of democracy and freedom when they read those headlines? If we are to maintain our international prestige and hold our allies fast to us, we must hasten our efforts to clean out the racial discriminations that besmirch our country.

You will recall that last June I testified before this committee on the civil rights bills introduced in the 85th Congress. I said at that time:

It is the duty of Government to deal with this problem, and to do so now. It is the duty of Congress to provide the leadership. We cannot afford to let the mobs and the apostles of hate and prejudice set our moral tone; nor can we sit idly by until they force us to resort to frantic improvisations after they have created dangerous civic disorder, violence, and riot. We cannot leave to the young child the burden of facing the mob; nor should the Government leave the Constitution to be carried on the shoulders of the poor and harassed individuals who seek only that which the Constitution guarantees to them. The pressures and coercions are becoming so great in some areas that only the Federal Government can protect their constitutional rights.

Unfortunately, the civil rights bills of last year came up too late in the last session of the 85th Congress. And so another year has gone by and deepened the urgency for enactment of legislation to meet the great problem which faces our Nation today. In the interim, many additional civil rights legislative proposals have come forth. They cover a wide variety of objectives.

For example, there are now before the Congress bills to strengthen the criminal laws dealing with voting, the enforcement of court orders, and FBI investigations of acts of violence; bills to extend the life of the Civil Rights Commission created under the Civil Rights Act of 1957; to require the preservation of election records; to set up a so-called "community relations service" that would conciliate disagreements concerning the guarantees of the constitution; to prohibit the use and possession of explosives with intent to damage or destroy schools, homes, and places of worship; to punish interstate flight to avoid prosecution for such bombings; to enact the provisions of the so-called title III which the Senate deleted from the civil rights bill of 1957 after it was adopted by the House of Representatives; to create a statutory commission to deal with discrimination in employment by those holding Government contracts; to authorize the Attorney General to inspect Federal election records; and various other proposals.

Many of these bills would be appropriate legislation to help enforce the guarantees of equal protection of the laws and the due process of law to which all Americans are entitled, as well as to further the ideals of first class American citizenship that we so rightly take pride in. When and if any of these bills reaches the floor of the House I will support them with all my strength.

Some bills, however, appear to be of doubtful or negative value. I oppose the proposal for the so-called community relations service to "conciliate" disagreements as to constitutional rights. Constitutional rights are legal rights, to be determined by the courts which our Constitution established to decide constitutional issues. And when the courts have determined a constitutional issue, it is no longer a proper issue for "conciliation." Such an approach simply envisages "conciliating" away the guaranties of the Constitution.

I also have grave doubt as to the value of the proposal to establish a so-called Commission on Equal Job Opportunity Under Government Contracts. The President's Committee on Government Contracts has for many years been performing precisely the functions which would be conferred on the proposed Commission. Unless additional functions or powers are conferred, or new methods devised to

improve the effectiveness of the present Committee, it seems to me that this proposal would simply subject the President's Committee to the hazards of political controversy and the threat of future slicing of appropriations, and would be only a kiss of death to an existing program, rather than a valid effort to reduce employment discrimination in the expenditure of Government funds.

Mr. MILLER. Mr. Chairman, may I ask a question?

The CHAIRMAN. Yes.

Mr. MILLER. Mr. Dawson, you refer in your statement to the conciliatory features. Are you referring to the bill introduced in the Senate by Senator Lyndon Johnson? There is no comparable bill in the House.

Mr. DAWSON. Yes, I had read his bill and given it much thought and I was referring to the "conciliation" proposed in that bill.

Mr. MILLER. You are referring to the bill introduced by Senator Lyndon Johnson?

Mr. DAWSON. Yes, sir.

Mr. MILLER. Thank you, Mr. Chairman.

The CHAIRMAN. And in that connection you feel there can be no conciliation?

Mr. DAWSON. Once the Supreme Court the duly delegated authority according to our law, has spoken, its decision becomes the law until it is repealed.

The CHAIRMAN. Mr. McCulloch.

Mr. MCCULLOCH. I understand your last statement to be that there is no field for discussion or conciliation after there is a valid court decree that remains unreversed and unpealed.

Mr. DAWSON. That is right, sir. That is well stated. Common-sense dictates that we must give priority to dealing with the mounting crisis of widespread resistance to law and order that is growing in many areas. To do so, I introduced H.R. 10928 in the 85th Congress, and an identical bill H.R. 300 in this, the 86th Congress. Subsequently, the President announced his seven points civil rights program, which is now contained in H.R. 4457. Some of the President's seven points, to which I shall refer in a moment, can be useful in dealing with a few of the problems of resistance to law and order. But the President's program is a weak and inadequate substitute for the kind of legislative program which is now so essential and which is embodied in my bill.

My bill would provide an affirmative program that will aid in preventing such conflicts between Federal and State authority as took place in Little Rock, and would mitigate tensions and hostilities in local communities. It would expressly recognize that although the "initial responsibility for equal protection of the laws rests upon each State, municipality, school district, or other local governmental unit * * * the Federal Government * * * also has a responsibility to guarantee the constitutional right to the equal protection of the laws." It would provide financial and technical assistance to communities in dealing with the problems of desegregation in compliance with the Constitution, and thus would help to get greater community support for the implementation of desegregation plans.

My bill emphasizes the development of plans by local communities for desegregation of the public schools. The Secretary of Health,

Education, and Welfare would cooperate in assisting them. Only where such plans are not developed by the local community, despite every effort by the Secretary to assist and persuade the community in developing such plans, would the Attorney General, as a last resort, institute civil action to enforce compliance with the approved plan of school desegregation.

Title IV of my bill would authorize the Attorney General, through civil actions, to protect the civil rights of persons being deprived of them because of race, color, religion, ancestry, or national origin; and to enjoin those who seek to prevent public officials from according others their constitutional rights or who seek to prevent or hinder the performance of court orders protecting such civil rights. It would also authorize the Attorney General to protect the constitutional rights of those who express opposition to the denial of constitutional rights for other persons.

The CHAIRMAN. What do you mean by opposition? Do you mean more than verbal opposition?

Mr. DAWSON. No, there are certain white people who object to the denial of constitutional rights to colored citizens and desire to take a stand against it; they are being subjected to terrorism and abuse. The bill ought to protect these people as well as those who are subjected to segregation.

The CHAIRMAN. You do not mean that if a man makes a speech against desegregation that he could be subject to the action of the Attorney General?

Mr. DAWSON. No, but if a person was for segregation and he harassed another person because that other person favored desegregation, the bill would protect the latter.

As you know, there are pending before your committee several other bills which are somewhat similar to mine (for example, H.R. 430, H.R. 461, H.R. 913, H.R. 3147 which was introduced by the distinguished chairman of this committee, Mr. Celler of New York, and H.R. 3212. I think it may be helpful to your committee to point out certain differences in these bills.

Unlike some of the bills, my bill does not refer solely to the 14th amendment, but draws its strength from the entire Constitution. I have adopted this approach in light of the history of the Civil Rights Act of 1875. As you will remember, that act was invalidated by the Supreme Court in civil rights cases, 109 U.S. 3 (1883) on the ground that the 14th amendment did not authorize Federal legislation against private violation of civil rights within the States. Subsequently, an effort was made to apply the 1875 act to a common carrier in interstate commerce, which is certainly within the congressional power under the Commerce clause of the Constitution. But the Supreme Court rejected that attempt, holding that Congress has intended to utilize only its power under the 14th amendment and that the 1875 act was not separable. *Butts v. Merchants Transportation Co.*, 230 U.S. 126 (1913). Congress, of course, has the power to prohibit racial discrimination in interstate commerce, and the Supreme Court later so held in *Mitchell v. United States*, 313 U.S. 80 (1941) and *Henderson v. United States*, 339 U.S. 816 (1950); see also *Morgan v. Virginia*, 328 U.S. 373 (1946). The lesson of that history is that we should draw upon the entire Constitution, rather than one clause thereof, when we prepare legislation to protect human rights.

My bill also does not limit its recognition of the judicial decisions concerning racial segregation to those of the Supreme Court in the fields of education, transportation, and recreation, but refers to the decisions of the Federal courts in all fields of civil rights. In other respects, also, I think that the findings set forth in section 2 of my bill are phrased more concisely and with wider application.

Another very significant difference is that under my bill the Secretary of Health, Education, and Welfare would be authorized to provide technical assistance not only in connection with public education but also in other fields where such assistance would aid in eliminating or preventing denials of constitutional rights based on race, color, religion, ancestry, or national origin. I have added the word "ancestry"—which has been included in many recent civil rights laws and ordinances—because the phrase "national origin" conceivably could be construed as not covering native born citizens whose ancestors came from a foreign land.

The CHAIRMAN. Will you be more specific on that? What is the difference between national origin and ancestry again?

Mr. DAWSON. I have added the word "ancestry," which has been included in many recent civil rights laws and ordinances.

Mr. HOLTZMAN. Mr. Chairman.

The CHAIRMAN. Mr. Holtzman.

Mr. HOLTZMAN. Would our distinguished colleague say that the word "ancestor" has a broader connotation and admits of no discrimination and no possible confusion?

Mr. DAWSON. That is right. Moreover, since our Constitution protects aliens as well as citizens, my bill would protect the constitutional rights not only of citizens but of all persons.

In closing, I want to say a few additional words about the seven-point program recently submitted to Congress by the President. I endorse point 1, which would strengthen the criminal sanctions against obstructions of court orders, and point 3, which would require retention for 3 years of Federal election records and authorize their inspection by the Attorney General. I would also vote for point 7, which would extend the life of the Civil Rights Commission for 2 more years. Although the Commission has done very little thus far, and its extension may afford another excuse for further inaction by the executive departments and in Congress, the unfortunate fact is that the Commission's work was obstructed for many months by the President's foot-dragging in nominating, and by the Senate's delay in confirming, the Commission's members and staff director.

Point 2 would penalize flight to avoid prosecution for destruction of educational or religious structures, and point 5 would provide public education for children of members of the Armed Forces when local officials refuse to provide adequate public education on an unsegregated basis.

The CHAIRMAN. You say that point 2 would penalize flight to avoid prosecution for destruction of educational or religious structures.

Mr. DAWSON. I state later that this does not go far enough in my judgment.

The CHAIRMAN. Some of the bills include homes.

Mr. DAWSON. Yes, it should include homes and places of business. Both point 2 and point 5 may have some value, but they do not go

far enough. Point 2 should also cover bombings of homes and stores as well as schools and places of worship; and it should prohibit the actual bombings with the use of explosives transported in interstate commerce, as well as flight from prosecution. As to point 5 providing education for children of military personnel is only a partial stopgap measure. My bill would protect not only these children, but all children, in their right to unsegregated education.

Point 4, to authorize grants to assist State and local educational agencies to effectuate desegregation, is but a pale shadow of the program of financial assistance embodied in my bill and is wholly inadequate to meet the grave crisis we now face.

The CHAIRMAN. Just what would your bill do in addition? Would it provide Federal funds, enable local communities to bring about desegregation by the building of additional schools and facilities?

Mr. DAWSON. Yes, sir; it does.

Finally, as I have already stated, I have grave doubt as to why the President submitted his point 6, to establish a Commission an Equal Job Opportunity Under Government Contracts. I think his proposal in its present form is largely useless and may imperil the continuation of the existing Committee on Government Contracts. The work of the latter agency ought to be expanded and made more effective, not put under the Damoclean sword of the Senate filibuster which ended the life of the wartime FEPC.

I believe that the enactment of H.R. 300 will be of great value to our entire country. I hope it will be favorably reported by your committee, and approved by the House of Representatives. I believe that its enactment by the House, plus the growing national realization of the need for congressional legislation to meet the present crisis, will help its passage in the Senate.

Thank you for your courtesy in receiving my views on these important bills.

The CHAIRMAN. Mr. Dawson, on page 2 of your statement in the last paragraph you speak of some States having repealed compulsory school attendance laws. Would you say that the closing of those schools or compulsory closing of those schools lowers the morale of that State, creates illiteracy, and thereby tends to diminish the spiritual and economic well-being of that State?

Mr. DAWSON. I think you stated it very well, sir. We have had indications of that. You will remember that in many places in the South they did not pass compulsory education laws because such laws would have compelled them to have educated Negro children. In the absence of such laws the Negro children did not get an education, and many of the children of poor white parents did not get an education either.

The CHAIRMAN. Will you aid the committee in indicating in your statement, either now or subsequently the names and places of communities that have gone that far?

Mr. DAWSON. I will provide such information. I can recall the State in which I was born and the conditions that obtained there during my childhood when they did not have the compulsory education laws. The public schools for the Negro children were kept open only during the time they were not needed to work in the fields. There were no compulsory education laws and therefore the poor white people did not

have education for their children, and that is why the South is backward in education because of those laws.

The CHAIRMAN. Now apparently there is a recrudescence of that by the repealing of those compulsory school laws. Can you give us the names of those communities where that has happened?

Mr. DAWSON. I will provide the committee with that information.

The CHAIRMAN. You cite on page 4 a wide range of bills that have been presented by various Members of the House to this committee. Does that not reflect how far the disorder and the disregard of the rights have spread as it happened in this country?

Mr. DAWSON. The chairman is entirely correct.

The CHAIRMAN. You speak on page 5 of the widespread resistance to law and order growing in many areas. Would you care to enlarge on that a little bit, to tell us more about that situation as far as you know?

Mr. DAWSON. We have but to follow the press to realize how far sections of this country have gone in their efforts to keep a few children from attending school under the rulings of the Supreme Court. They have even passed laws within the States closing the schools.

The CHAIRMAN. Can you give us the names of the States and the names of the communities in the States which would indicate such a widespread resistance to law and order?

Mr. DAWSON. I could give you the names of the States and the communities. May I provide you with that later also? I would like to document it and give it to you. I will do so without delay.

(Mr. Dawson's letter of March 9, 1959, with attachments, supplying information concerning the matters referred to is as follows:)

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 9, 1959.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: On March 5, when I testified before your committee on my bill (H.R. 300) and other civil rights bills, you and Congressman McCulloch requested me to supply certain additional information to be included in the record of the hearings.

In response to those requests, I have accumulated the following information which, although not complete or exhaustive, amply demonstrates the urgency and seriousness of the problem facing our nation. In reviewing the examples of widespread violence and resistance to law and order which are here cited, your committee may wish to ask the Attorney General what the Department of Justice has done, or proposes to do, about these shocking instances of violence and terror.

I. BOMBINGS

There have been 87 bombings of churches, synagogues, schools, homes, stores, and other property in the 4 years between June 1954 and November 1958, which is the period covered in a list furnished to me by the Legislative Reference Service of the Library of Congress. This list is attached as Attachment A.

II. BOMB HOAXES AND THREATS

The bombings mentioned above have encouraged innumerable bomb hoaxes or threats which have forced the evacuation of pupils from schools and have routed worshippers from their devotional services in places of worship. Attachment B contains excerpts from the Southern School News of January 1959 telling of the "epidemic" of bomb hoaxes at schools in North Carolina and West Virginia in November and December 1958. Also fresh in our memory is the bomb

hoax of October 19, 1958, which forced the congregants to evacuate the Arlington Unitarian Church, which is just across the Potomac River from Washington, D.C.

III. MOB DEMONSTRATIONS

There have been numerous instances of mob demonstrations in connection with resistance to school integration, among the more notorious being those in the following places:

Clay, Ky., September 1956.
 Clinton, Tenn., September 1956.
 Sturgis, Ky., September 1956 and 1957.
 Mataoka, W. Va., September 1957.
 Little Rock, Ark., September 1957.
 Tuscaloosa, Ala., February 1956 (University of Alabama).

IV. VIOLENCE TOWARD INDIVIDUALS

There have been innumerable instances of violence inflicted on individuals. Among the more notorious have been the following:

Sumner, Miss., 1955: Emmitt Louis Till (14-year-old boy murdered).
 Belzoni, Miss., May 7, 1955: Rev. George E. Lee (murdered).
 Birmingham, Ala., April 10, 1956: Nat (King) Cole (attacked).
 Clinton, Tenn., December 4, 1956: Rev. Paul W. Turner, white minister, attacked and beaten after escorting Negro students to Clinton High School.
 Maplesville, Ala., August 9, 1957: Six Negroes beaten and shot at by mob of white masked men.
 Birmingham, Ala., September 2, 1957: J. Edward Aaron castrated by 6 white men.
 Dawson, Ga., 1958: James Brazier, clubbed to death by policeman because he protested their beating of his father; Tobe Latimer, shot in buttocks; Willie Countryman, shot in stomach while in his own backyard.

The atmosphere in Dawson, Ga., is reflected in the statement by Sheriff Z. T. (Zeke) Matthews: "There is nothing like fear to keep niggers in line."

Montgomery, Ala., September 3, 1958: Dr. Martin Luther King, Jr., man-handled.

Bessemer, Ala., January 24, 1959: Asbury Howard (international vice president of Mine, Mill & Smelter Workers) and his son were beaten at city hall by white mob for putting up a poster depicting a Negro in chains and urging Negro to vote.

V. THE MISUSE OF LAW TO FOSTER RESISTANCE TO DESEGREGATION

More than 150 statutes have been enacted by virtually all of the Southern States to perpetuate racial segregation. They cover a wide range of subjects, including interposition, nullification, pupil placement schemes, closing of schools, withdrawing State funds from desegregated schools, establishing "private" schools, financial support for "private" schools, tuition grants, criminal penalties for spending tax funds on desegregated schools, loss of retirement benefits, suspension of compulsory school laws, and a wide variety of laws to harass and intimidate persons from advocating integration or departure from the State segregation laws. Many of these laws are set forth, or summarized, in the monthly issues of Southern School News, and in the Race Relations Law Reporter.

Since you and Congressman McCulloch were particularly interested in the laws dealing with interposition and nullification, closing of schools, and repeal of the compulsory school attendance laws, these laws are listed, as follows:

INTERPOSITION AND NULLIFICATION

Alabama: Act 42, first special session 1956 (SSN, vol. 2, No. 8, p. 6).
 Arkansas: Amendment 47, Arkansas Constitution (1 RRLR, p. 1117).
 Florida: Senate Concurrent Resolution 17-XX, 1956 special session (1 RRLR, p. 948).
 Georgia: House Resolution 185, 1956 session (1 RRLR, p. 438).
 Louisiana: House Concurrent Resolution 10, 1956 session (1 RRLR, p. 753).
 Mississippi: Senate Concurrent Resolution 125, 1956 session (1 RRLR, p. 442).

South Carolina: Act 914, 1956 session (1 RRLR, p. 443).
 Tennessee: House Resolution 1 and 9, 1957 session (2 RRLR, pp. 228 and 481).
 Virginia: Senate Joint Resolution 3, 1956 session (1 RRLR, p. 445).

STATUTES AUTHORIZING CLOSING OF SCHOOLS TO PREVENT DESEGREGATION

Alabama: Act 82, first special session 1956 (SSN, vol. 3, No. 3, p. 3).
 Arkansas: Acts, 1958 session (SSN, September 1958, p. 4).
 Florida: Act, special session 1957.
 Georgia: Act 11, laws, 1956 (1 BRLR, p. 418); acts, 1950 session (SSN, February 1959, p. 10).
 Louisiana: Acts, 1958 session (SSN, July 1958, p. 16).
 Mississippi: Chapter 132, General Laws, 1955; acts, 1958 session (SSN, May 1958, p. 4).
 North Carolina: Chapter 1, Extra Session Laws, 1956 (1 RRLR, p. 928); chapter 4, Extra Session Laws, 1956 (1 RRLR, p. 934).
 South Carolina: Code, title 21, sec. 230 Act 813. 1956 session; Act 49 (329), 1955 session.
 Texas: Senate bill 1, special session 1957 (SSN, vol. 4, No. 6, p. 5).
 Virginia: Chapter 68, extra session, 1956; Virginia Code, secs. 22-188.3 through 22-188.15.

STATUTES REPEALING COMPULSORY SCHOOL ATTENDANCE LAWS

Arkansas: Act 84, 1957 session (2 RRLR, p. 453).
 Georgia: Act 139, laws, 1957 (2 RRLR, p. 453); act, 1958 (SSN, March 1958, p. 13).
 Louisiana: Act 28, 1956 session (1 RRLR, p. 728); act, 1958 session (SSN, July 1958, p. 16).
 Mississippi: Chapter 288, general laws, 1956 (1 RRLR, p. 442).
 North Carolina: Chapter 5, extra session laws, 1956 (1 RRLR, p. 938).
 South Carolina: Act 49 (85) laws, 1955.
 Virginia: Act of January 31, 1959 (Washington Post, February 1, 1959).

I also enclose, for the convenience of your committee in seeing the differences between my bill (H.R. 300) and some of the other bills now before you which have the same general objective, a copy of H.R. 3147 with deletions and insertions indicating those differences.

I trust that the foregoing information, together with the enclosed attachments, will be helpful to you. If there is any further information you wish, I shall be pleased to supply it.

Sincerely yours,

WILLIAM L. DAWSON,
Member of Congress.

ATTACHMENT A

MAY 1954 TO DATE

1954

1. June 27, Louisville, Ky.: Dynamite blast damaged the home of Andrew Wade II, a Negro, who had just moved into a white neighborhood. (This incident took a bizarre turn when six white persons were indicted by a grand jury on charges of advocating sedition, and the jury said that several of this group had planned the blast in an effort to stir up racial discord.)
2. August 24, Norfolk County, Va.: Bombing of a Negro's home in the Coronado section of Norfolk County, a former all-white area.
3. August 28, Norfolk County, Va.: For the second time within a week the home of a Negro in previously all-white Coronado was bombed.
4. September 10, Norfolk County, Va.: Another home recently purchased by a Negro in the Coronado section was damaged by a blast.
5. September 11, Fort Worth, Tex.: Bomb destroyed the car of Kerven W. Carter, Jr., a Negro schoolteacher, whose parents had recently moved next door to a white family. The blast also damaged Carter's house.
6. Late September to early October, Miami Beach, Fla.: A dynamite blast damaged the unfinished Hotel Fontainebleu. (There had not been any labor trouble or any other apparent cause for blast.)

1956

7. January 30, Montgomery, Ala.: The home of a Negro minister, Rev. Martin L. King, Jr., was blasted. Reverend King was among the leaders of the Negro bus boycott.
8. February 1, Montgomery, Ala.: A bomb exploded in the front yard of another Negro leader of the bus boycott, E. D. Nixon, a former State president of the NAACP. None were injured, and only a fence was damaged.
9. February 25, Atlanta, Ga.: A bomb blew a hole in the front lawn of Jewell Stewart, Jr., a Negro, who had just moved into his home in a white neighborhood.
10. March 25, Atlanta, Ga.: A bomb wrecked the home of a Negro family who had moved into this house only 36 hours before the blast. The house was in a white neighborhood. In the house at the time were: Mrs. Eddie May Cooper, 49, her daughter, Mrs. Jeanette Howard, 28, along with her two children aged 11 and 5; and a friend, Cleave Arline, 29. No one was injured. The house next door was also damaged in the blast.
11. July 2, Atlanta, Ga.: Dynamite blast shattered the home of Carl Haynes, a Negro, who had just moved into a white neighborhood. No one was injured, but part of the two front rooms were damaged. Six windows of the house next door were also shattered.
12. July 23, Americus, Ga.: The roadside market of Koinonia Farm, an interracial religious cooperative, was dynamited causing an estimated \$3,000 in damages.
13. August 25, Montgomery, Ala.: A blast, caused by two or three dynamite sticks, damaged the home of Rev. Robert Graetz, a white Lutheran minister of all-Negro Trinity Lutheran Church. He had been active in the Negro bus boycott.
14. September, Oliver Springs, Tenn.: Dynamite was hurled into the Negro section of Oliver Springs, during the segregation riots in nearby Clinton, Tenn.
15. September 26, Clinton, Tenn.: Dynamite was exploded in a lot alongside the home of Ronald Hayden, one of 12 Negro students at the Clinton High School.
16. December 4, Oliver Springs, Tenn.: An explosive was apparently hurled from a moving car and went off in the yard of Arvil Hall, a Negro house painter.
17. December 25, Birmingham, Ala.: Dynamite shattered the home of Rev. F. L. Shuttlesworth, a Negro integration leader. The blast injured two of his children and a neighbor.

1957

18. January 7, Beaumont, Tex.: Bomb went off outside home of Dr. Ed Sprott, a Negro physician and former NAACP official.
19. January 7, Mobile, Ala.: Bomb did little damage to the home of Walter Johnson, a Negro.
20. January 9, Montgomery, Ala.: Bombs caused damages at four locations:
 - (a) Home of Rev. Robert Graetz, a white minister with an all-Negro congregation.
 21. (b) Home of Rev. Ralph D. Abernethy, a Negro minister.
 22. (c) Reverend Abernethy's First Baptist Church.
 23. (d) Hutchinson Street Baptist Church.
24. January 9, Beaumont, Tex.: Bomb was set off under the home of Mr. and Mrs. Grover Lee Myles, a Negro couple residing in a mixed neighborhood.
25. January 14, Americus, Ga.: Koinonia Farm's roadside market was blasted by dynamite, destroying entire market, valued at \$7,000.
26. January 23, Chattanooga, Tenn.: A dynamite bomb thrown from a car exploded in front of a house which the white owner, Galen E. Lehman, had offered to sell to Negroes. The blast shattered four windows and cracked the sidewalk leading to the front porch.
27. January 27, Montgomery, Ala.: Attempt to blow up the home of Rev. Martin Luther King, Jr., Negro minister, misfired.
28. January 27, Montgomery, Ala.: A bomb was tossed between a Negro home and a filling station, caused damage to both buildings. (On January 31, Montgomery Police Chief G. J. Ruppenthal said that 6 white men had been charged in connection with the bombing incidents in Montgomery (Nos. 20, 21, 22, 23, 27, 28.) The six men were: Henry Alexander (Nos.

- 21 and 28), James D. York, (No. 21), Raymond C. Britt (Nos. 22, 23, 27 and 28), Eugene Hall (No. 20), Charles Bodiford (No. 20), Donald Dunlap (No. 27). On February 19, a Montgomery grand jury indicted James D. York and Henry Alexander re bombing No. 21. They were set free on bonds of \$12,500 and \$12,800, and trial was set for May 27 or later. On May 30, it was announced that the trial was postponed for 2 months. On May 27, Raymond C. Britt and Sonny Kyle Livingston went on trial on charges of bombing the home and churches of Negroes bus boycotters. Britt had been indicted in connection with bombings Nos. 22, 23 and 28. Livingston had been indicted in bombing No. 23. On May 28, the State introduced a signed statement by Livingston admitting that he had lit the fuse and threw the bomb (No. 23), and that Britt had driven the car from which the bomb was hurled. On May 30, Britt and Livingston were acquitted.
29. January 28, Beaumont, Tex.: A bomb blew up the body of a truck parked near the county courthouse and owned by State Representative Rufus Kilpatrick.
 30. January 28, Beaumont, Tex.: A blast damaged the entrance to St. Michael's Orthodox Church.
 31. January 28, Beaumont, Tex.: Windows in a home near the First Christian Church were damaged by a blast. (On February 25, a justice of the peace dismissed a charge of possessing a bomb against E. E. Sanford, who had been charged re bombings (Nos. 29, 30, and 31). The charge was dismissed when police did not appear to press charges. Sanford's cousin, Tom Sanford, had also been charged in this connection.)
 32. February 14, Clinton, Tenn.: A suitcase of dynamite exploded in the heart of the Negro section, injuring a woman, an 11-month-old baby and wrecking property over a wide area including a nearby restaurant.
 33. February 18, Mobile, Ala.: The home of Walter Johnson, a Negro, was again damaged by a bomb.
 34. February 19, Knoxville, Tenn.: Dynamite explosion reverberated through municipal building where Negro Louis Armstrong's band played to a segregated audience.
 35. February, Americus, Ga.: Another bombing of Koinonia Farm's roadside market.
 36. April 29, Bessemer, Ala.: Blast at Allen Temple A.M.E., a Negro church.
 37. April 29, Bessemer, Ala.: Explosion at the home of Asbury Howard, a Negro and international vice president of the United Mine, Mill and Smelter Workers.
 38. May 25, Chattanooga, Tenn.: House of R. H. Craig, Negro attorney, dynamited.
 39. August 13, Jersey, Tenn.: The home of a Negro couple was dynamited, after having been the target of shotgun fire 5 weeks earlier.
 40. September 9-10, Nashville, Tenn.: The new Hattie Cotton Elementary School was virtually destroyed by dynamite. (The following were held as suspects: Vincent A. Crimmons, J. B. Blackwell, James R. Harris, Carroll Crimmons, W. D. Hodge, and William A. Wilkens. In addition, on September 13, the FBI turned over to local police a suspect, Charles Reed.)
 41. September 13, Easton, Md.: Attempted bombing of the home of Sessions Boyd, a Negro headwaiter and father of two boys enrolled in a previously all white elementary school. The bomb was made up of 10 dynamite sticks wrapped with tape and enclosed in a gray plastic bag. Its fuse had burned down to within 5 inches of the detonating cap.
 42. October 2, Greensboro, N.C.: Explosion at Negro man's home, two blocks from white school his children now attend.
 43. October 27, Chattanooga, Tenn.: An explosion ripped a hole in a field near a Negro area.
 44. October 28, Chattanooga, Tenn.: A house rented by a Negro couple was damaged by a dynamite blast in the front yard.
 45. November 1, Bessemer, Ala.: A dynamite blast damaged the home of a Negro attorney, David Hood, Jr., who is attempting to open Bessemer's two public parks to Negroes.
 46. November 5, Chattanooga, Tenn.: Police investigated the third dynamite incident in a Negro section in less than 2 weeks. In the latest explosion, a vacant house was practically destroyed and several hundred dollars damage was done to another. The houses are in a new subdivision designed exclusively for Negroes. None of the 65 houses is occupied.

47. November 7, Clinton, Tenn.: Police uncovered a scheme by two youths, Avon Nolan and Clifford Lowe, to blow up "half the town including the school-house." They had secreted away two caches of dynamite, each including more than 150 sticks, with the intent of causing one great blast. They said they had planted the dynamite once, but then backed out before setting off the blast. The dynamite sticks were found in burlap potato sacks left by the side of a river bank in two places. (On December 8, a third suspect, Edward Cline, was apprehended in Joliet, Ill., and waived extradition. On January 31, 1958, the Anderson County grand jury indicted the three men. In early February 1958, the State dropped charges against Avon Nolan. Assistant District Attorney George Walter F. Fischer complained to the judge that he "could not proceed with the prosecution with Nolan" whose lawyer had originally planned to plead him guilty. Fischer had said that he planned to subpoena Nolan as a State's witness against the other two defendants.)
48. November 11, Charlotte, N.C.: Bombing attempt at Temple Beth-El failed.
49. November 16, Gaffney, S.C.: Bomb failed to go off at the home of a white woman, wife of Dr. James H. Sanders, who had written an article advocating a moderate approach in racial relations.
50. November 19, Gaffney, S.C.: Another attempt to bomb the home of Mrs. Sanders failed.
51. November 20, Gaffney, S.C.: This time a blast went off at the home of Mrs. Sanders, causing some damage. (On December 7, five men including: John D. Painter, Luther E. Boyette, James R. McCullough, Cleatus Sparks, and Robert P. Martin, were arrested and charged with bombing the home of Dr. Sanders on November 16. (No. 49.) (On June 30, 1958, a magistrate ordered that John Painter and James R. McCullough be bound over for grand jury action; and he freed Luther Boyette and Cleatus Sparks, saying "The State failed to produce any evidence connecting Boyette and Sparks with the dynamiting." On July 18, Painter and McCullough were acquitted by a jury.)
52. November 20, Cherokee County, S.C.: Blast rocked the home of a Negro tenant farmer, Lewis Ford.
53. November 26, Ringgold, Ga.: Attempt to dynamite the home of Philip Higgins, a Negro, failed.
54. December 7, Birmingham, Ala.: Two dynamite blasts shattered a home into which a Negro family (Robert Greer) was preparing to move.
55. December 31, Birmingham, Ala.: Home of Negro family which moved into white neighborhood—damaged by bomb explosion—home owned by Otis Flowers.
56. December 31, Little Rock, Ark.: Mrs. L. C. Bates, Arkansas president NAACP reported an attempt to bomb her home.

1958

57. January 1, Charlotte, N.C.: The marquee at a drive-in theater that admits both Negro and white patrons was dynamited.
58. January 19, Chattanooga, Tenn.: An explosion damaged Howard School for Negroes.
59. January 19, Tulsa, Okla.: A crude bomb did little damage to a home occupied by a Negro family (that of Johnny Gamble) who had moved in 2 months before.
60. January 27, Chattanooga, Tenn.: An explosion was set off outside the Phyllis Wheatley branch of YWCA, a community building for Negroes. The blast was the second in 8 days near a Negro institution.
61. January, Columbus, Ga.: Windows in a dwelling, belonging to a Negro were shattered by a blast, believed to have been caused by dynamite. Several nearby homes were also damaged.
62. February 9, Gastonia, N.C.: Bombing attempt at Temple Emanuel also failed.
63. February 15, Charlotte, N.C.: Five men arrested for attempting to dynamite a county Negro elementary school. (The five seized were: William O. Spencer, Lester F. Caldwell, David D. Quick, Arthur Monroe Brown and Jack Ayscue. On March 20, Caldwell received a 5 to 10 year prison term; Spencer and Brown received 5-year sentences each; and Quick and Ayscue were acquitted.)
64. February 17, Atlanta, Ga.: A dynamite blast damaged a Negro's home in a white section.

65. February, Birmingham, Ala.: Rev. F. L. Shuttlesworth said that a group of men tried to throw dynamite at his Bethel Baptist Church (Negro) from a speeding car.
66. March 16, Miami, Fla.: Dynamite blast did at least \$30,000 worth of damage to Temple Beth-El's school-recreation annex.
67. March 16, Nashville, Tenn.: Dynamite blast ripped the front of the Jewish community center building.
68. March 17, Atlanta, Ga.: Dynamite damaged an unoccupied house recently sold to a Negro in a predominantly white neighborhood.
69. April 27, Jacksonville, Fla.: Dynamite blast at Jewish center.
70. April 27, Jacksonville, Fla.: Bombing damaged the entrance way of a Negro school, the James Weldon Johnson Jr. High School.
71. April 28, Birmingham, Ala.: Dynamiting of Temple Beth-El misfired.
72. May, Bessemer, Ala.: Bombing of a Negro's home.
73. May 23, Jacksonville, Fla.: A small explosion was set off in a suburban Negro section, leaving a 20-inch crater in an alley between several apartment buildings and a store and shattered a number of nearby windows.
74. June 7, Gastonia, N.C.: James E. Campbell was arrested for threatening a rabbi, and for telling an officer that he was going to throw a hand grenade into Temple Emanuel 2 weeks ago. (On June 17 convicted and received 2 year suspended sentence.)
75. June 21, Beaumont, Tex.: A crude bomb, fashioned from a flaming bottle of kerosene, was hurled against the home of Dr. Russell Long, biology professor at Lamar State College of Technology.
76. June 29, Birmingham, Ala.: Second attempt to blow up the Negro Bethel Baptist Church, of Rev. F. L. Shuttlesworth, failed when a volunteer guard carried a smoking dynamite charge away from the building before it exploded. The blast shattered windows as much as 5 or 6 blocks from the scene and chipped plaster off the walls of the church.
77. July 2, Columbus, Ga.: The home of a Negro family in a mixed neighborhood was partially demolished by dynamite hurled against the house. None of the occupants was hurt. The owner, Mrs. Essie Mae Ellison, said that there had been threats to blow up the Negro Masonic temple where the Rev. Martin Luther King, Jr. spoke on the night of July 1. However, she continued, police were believed to be guarding the Masonic temple, "so I guess they decided to use the dynamite on me."
78. July 7, Durham, N.C.: A bomb was flung at the home of Rev. Warren Carr, a Baptist minister and chairman of a human relations committee. No one was hurt by the blast, but homes as far as 10 blocks away were disturbed.
- 79 and 80. July 17, Birmingham, Ala.: The home of a Negro, William Blackwell who lives in a mixed neighborhood, was blasted by a stick of dynamite. Minutes after this blast, a second bomb went off in an empty field a block away. Two suspects were caught by Negroes and were beaten. Police said the men may have been part of a plot to bomb many Negro homes simultaneously. (The former all-white neighborhood is in the process of becoming a Negro area.) Three men were being held by the police: Herbert Eugene Willicutt, Ellis Lee and Cranford Neal. After being held without bond, the trio were released in \$10,000 bond each on August 23. They face grand jury action.
81. August 5, Memphis, Tenn.: Mount Moriah Baptist Church, a Negro church, was bombed.
82. October 5, Clinton, Tenn.: Three dynamite explosions destroyed most of the integrated Clinton High School.
83. October 12, Atlanta, Ga.: Reform Jewish temple was heavily damaged by a dynamite blast.
84. October 14, Peoria, Ill.: A homemade bomb damaged Anshai Emeth Temple.
85. November 10, Osage, W. Va.: A dynamite blast heavily damaged an integrated elementary-junior high school.
86. November 23, New Orleans, La.: There was an explosion in a parking lot area reserved for the head of the local school board.
87. November 23, Hobbs, N. Mex.: A stick of dynamite shattered a classroom at the Heigler Junior High School, causing an estimated \$2,000 damage. Integration had gone into effect at Hobbs in 1954.

ATTACHMENT B

[Excerpts from Southern School News, January 1959, p. 15]

NORTH CAROLINA

COMMUNITY ACTION

A rash of school bomb hoaxes in North Carolina that began in November reached epidemic proportions in December and was halted only when the schools were closed for the Christmas holidays.

The first occurred on November 24 in the village of Mount Pleasant in Cabarrus County about 25 miles from Charlotte. A man, hysterical and sobbing, called the Mount Pleasant police station to report he had placed a bomb in the Mount Pleasant High School. He said it would go off in 15 minutes. Some 1,200 children were marched out of the school. Officers and school officials conducted a thorough search. They found no explosives. School was dismissed for the day while a more thorough search was conducted. Still no bomb.

DELUGE FOLLOWS

That set the pattern for a host of similar bomb scares in the month that followed. Thousands of children were marched out of schools, often in freezing weather and occasionally in snow. As the number of hoax calls mounted past the half a hundred mark, the callers went after the others—colleges, industrial plants, a theater or so, and an office building.

The calls presented police and school officials with a major problem. "We can't take any chances," explained one officer. "The next call might be the live one. Then, if we didn't shake the place down and someone got killed or injured, we'd regret it the rest of our lives."

WEST VIRGINIA

BOMB HOAXES HIT STATE

SCHOOL BOARDS AND SCHOOLMEN

Authorities continued their probe into the November 10 dynamiting of the integrated school at little Osage, a mining town in upstate Monongalia County, but without results.

A suspect picked up on a vagrancy charge and questioned over a period of 2 weeks was released when insufficient evidence could be found to hold him.

The predawn explosion had a shattering effect on the school where whites and Negroes have gone to school together without incident for 3 years. Monongalia County, where Osage is located, was the first in the State to completely desegregate its schools.

BOMB HOAX

Shinnston, a small mining center in the county adjoining Monongalia, became the fourth community to go through a school bombing scare after the Osage school was wrecked. Other scares took place at Oak Hill, a downstate mining center, Point Pleasant, an Ohio River agricultural center, and Charleston, the State capital.

A 15-year-old Oak Hill high school student is the only person so far caught in the rash of bomb scares. He admitted calling city police with a warning that a bomb would be placed in the Collins High School.

Mr. ROGERS. Mr. Chairman.

The CHAIRMAN. Mr. Rogers.

Mr. ROGERS. I am glad to see Mr. Dawson here today as we see him in Denver quite often and he has a good friend, Earl Mann, there. He and Earl were lieutenants together in World War I, so he and Earl have helped the problem out in that area for a number of years. I appreciate your statement, Mr. Dawson.

Mr. McCULLOCH. Mr. Chairman.

The CHAIRMAN. Mr. McCulloch.

Mr. McCULLOCH. I was particularly interested in your comments, Mr. Chairman, and in our distinguished colleague's comment, concerning the wide disrespect for law that is apparent in this country. It is most regrettable. I am sure, however, the witness believes that this disrespect for law overflows many other fields in this country. Involved are not only civil rights but many other fundamental rights. Wide disrespect for law has been brought to light in the extensive hearings of the Senate labor rackets committee. Testimony taken over a period of 2 or 3 years shows that such disrespect extends to every major city in the country, and it is a thing that we ought to also attack from all angles.

Mr. DAWSON. I think Congress should take the leadership in that.

Mr. McCULLOCH. I join the chairman and my colleague Mr. Rogers in their statements that I am very happy to have Mr. Dawson present his feeling on this matter today, but I regret that he thinks that the President's program is weak and inadequate. I would like to say this, that the bill which he mentions, H.R. 4457, bears my name, and is the administration bill. I think its approach is temperate and moderate. If enacted into law, H.R. 4457 would constitute a gigantic step in implementing the civil rights of all Americans. To my mind its enactment would constitute one of the most significant steps forward since the end of the War Between the States.

I would like to ask the witness if he feels that the Federal Government should assume primary liability for offenses which, up to this time, have been purely local and I refer particularly to the offenses of bombing of schools and places of worship. Do you believe that the States or the Federal Government should assume the primary responsibility in that field?

Mr. DAWSON. Sir, I think our citizenship is dual. We are citizens of the States in which we reside, but we are also citizens of the United States and as such are entitled to certain constitutional rights. The United States does owe a duty to its citizens to protect them in that respect. Too often we do not think of the responsibility the Federal Government owes to its citizens in whatever State they may reside. The Federal Government protects any American citizen abroad. Then can it not protect him here at home in the exercise of his constitutional rights?

Mr. McCULLOCH. Yes; if you are asking me the question. But your question does not present a parallel case. There is not the same authority in the Federal Government in local offenses to protect a citizen as there is when that citizen is on foreign soil. And by way of observation, I would like to make this observation: I think that as we assume, at the Federal level, more and more jurisdiction and responsibility, which formerly was the jurisdiction and responsibilities of the States and local subdivisions, just in that amount will we paralyze the effectiveness of local law enforcement, and soon it will be utterly paralyzed if we proceed headlong down that road.

Mr. DAWSON. If we left it to the local States to get local law we would not, in some States, get enforcement of civil rights, sir.

Mr. McCULLOCH. Well, I do not know whether I agree entirely with that statement as it refers to the field in which I am now particularly interested. And in that regard, I would like to ask my colleague if

he knows of a single case where there has been a bombing of a church or a public school or a school of any kind which has not been investigated in accordance with the local laws?

Mr. DAWSON. Yes, I do.

Mr. McCULLOCH. Can you name instances and the towns and the States?

Mr. DAWSON. I will give you a list of them.

Mr. McCULLOCH. You do not have them? You will furnish them?

Mr. DAWSON. Yes; and I will state that there has not been a single conviction in any case locally.

(The list of matters referred to is contained in Mr. Dawson's letter of March 9, 1959, set forth above.)

The CHAIRMAN. There have not been any convictions as far as you know, judging from the public press. It may be that the State authorities were either reluctant or unable to afford the proper surveillance for tracking down of the criminals.

With reference to the question the distinguished gentleman from Ohio raised about the bombings there is no doubt that they are local in their nature. They do participate in interstate commerce quite frequently because in a number of these instances the dynamite that was used was clearly that which had crossed State lines. We had this same argument prior to the passage of the kidnaping statute. For years it was held that kidnaping was a local crime. Then it was discovered that most of the kidnaping involved the crossing of State lines and therefore we made such kidnaping a Federal crime. Now we do make kidnaping a Federal crime and I think there is a fairly good precedent. I would not say it is an absolute precedent. It is a fairly good precedent for making these bombings, particularly where dynamite is used that had been imported into the State—and if I remember correctly some of the bills that have been offered provide that where such bombing has occurred the inference will be drawn that the dynamite used had been imported into the State and therefore that dynamite moved in interstate commerce which would give the Congress power to enact legislation with reference to the use of the dynamite. It is a very close question and it cannot be answered in an offhand manner and we have to wrestle with it I am sure, but I think the precedent of kidnaping is a good one. As I say not too good, but a fairly good one.

Mr. McCULLOCH. Mr. Chairman.

The CHAIRMAN. Mr. McCulloch.

Mr. McCULLOCH. Mr. Chairman, if I might comment, as I recall the offense of kidnaping becomes a Federal offense when there is transportation across State lines and there is no more than a presumption, if that, until there is that proof.

Now I have no hesitancy in saying, in discussing this title in the administration bill, Mr. Chairman and Mr. Dawson and members of the committee, we felt the difficulty of proving the transportation of dynamite or other explosives in interstate commerce because after the explosion the dynamite or the other explosive is no longer there and you are immediately in the field of conjecture and supposition. Those factors were all weighed. And again, defending the administration's measure, we felt that this title, title II, in the administration's bill was a most excellent beginning in this field and that if we were able to get title II enacted into law at this session of Congress it would

be one of those giant steps in the path that we have to travel if full civil rights are to be extended to all.

Mr. DAWSON. It does not go far enough. It is a good beginning.

The CHAIRMAN. Are there any further questions?

Mr. MILLER. Yes, Mr. Chairman.

The CHAIRMAN. Mr. Miller.

Mr. MILLER. Mr. Dawson, I would like to carry on a bit too with the questioning of my colleague Mr. McCulloch. You stressed of course the importance of the preservation of constitutional prerogatives in your statement. You also know that it is a part of the Constitution that the States reserve to themselves, under the Constitution, all powers which were not delegated to the Federal Government, including the police powers. That is the right of the States, to exercise police powers over crimes committed by their citizens within the State. You understand that to be the Constitution?

Mr. DAWSON. I understand that.

Mr. MILLER. Now if you wanted to carry this bombing theory to the extent which you wish to carry it, as contra to the administration approach, why wouldn't it also be logical to say that every murder committed in the city of Chicago, or, in my State of New York, is a Federal crime because the gun or the bullet came from a foreign State, or was transported in an interstate commerce. Carrying it to its logical conclusion, wouldn't it be possible on the same legal theory for the Federal Government to usurp the entire police power now reserved under the constitution of the State.

Mr. DAWSON. No. I think you fail to draw the distinction between acts which involve, and those which do not involve, the constitutional right of an individual. I want to repeat to you again the Constitution sets up dual citizenship. It makes you a citizen of the State and of the United States. In those cases in which the United States is directly involved the United States should take action. It is this type of case which is meant to be reached by my bill.

Mr. MILLER. But you are basing your claim to Federal jurisdiction on the interstate aspect of the transportation of dynamite.

Mr. DAWSON. Basically, my claim to Federal jurisdiction is over those constitutional rights that the Constitution is bound to protect where they are invaded by the State law.

Mr. MILLER. Then would you say it was the constitutional prerogative of the Federal Government to prosecute a bombing if the dynamite was not used in interstate commerce or had not been transported in interstate commerce and if the criminal did not cross a State line? In other words, if the bombing occurred in a State with dynamite purchased within the State by a citizen of that State.

Mr. DAWSON. The State would have jurisdiction of it.

Mr. MILLER. And would the Federal Government under any stretch of the imagination come in, in your theory?

Mr. DAWSON. Not in the case which you stated, but once you embody in the dynamiting a constitutional right of an individual, the Federal Government is bound to enforce the rights of the individual.

Mr. MILLER. Even if there is no transportation in interstate commerce of the weapons used.

Mr. DAWSON. Where it is set up in the Constitution, sir, the Federal Government has a duty to enforce the laws protecting its citizens, and I am a citizen of the United States.

Mr. MILLER. And you have a right not to be murdered.

Mr. DAWSON. And I have a right to be murdered under certain circumstances, if we go to war.

Mr. ROGERS. Mr. Chairman.

The CHAIRMAN. Mr. Rogers.

Mr. ROGERS. What you have reference to in this legislation is where a bombing occurs as a result of moving against a class or a group?

Mr. DAWSON. That is correct.

Mr. ROGERS. And it is a Federal right that should be upheld, a Federal right that they should be protected.

Mr. DAWSON. That is the position that I take.

Mr. ROGERS. And you are relying entirely upon interstate commerce to give jurisdiction?

Mr. DAWSON. That is correct.

Mr. MILLER. And even in gang murders.

Mr. ROGERS. If it is to deprive an individual of a constitutional right.

Mr. MILLER. Everybody has a constitutional right to the protection of life, liberty—

Mr. ROGERS. And the pursuit of happiness.

Mr. MILLER. Then I take it you would have the Federal Government usurp the whole right.

Mr. DAWSON. No. I believe in State's rights up to the violation of the constitutional rights.

Mr. ROGERS. You fail to see the point the gentleman is trying to make.

Mr. MILLER. I see it, but I am surprised.

Mr. ROGERS. That is understandable.

Mr. CHAIRMAN. Isn't there another aspect of this? I think what Mr. Miller, the distinguished gentleman from New York, says is very pertinent. There is no question about it and it must be considered when we come to these various provisions. As I said before the problem is not easy of solution from a constitutional standpoint, but someone, and I use the word someone, said we have the constitutional provision which permits Congress to conserve and promote the national welfare. That is another very important provision of the Constitution.

Would you say that if you had wholesale bombings throughout a particular area of the country that that would affect the national welfare?

Mr. DAWSON. Wholesale bombing, certainly it would.

The CHAIRMAN. Therefore there might be room for argument that Congress could come into the picture through that door.

Mr. DAWSON. In a national emergency if local law enforcing agencies break down, certainly they would call on the Federal Government themselves or the Federal Government would assert its right to protect the lives of its citizens if local law had broken down.

Mr. McCULLOCH. Mr. Chairman.

The CHAIRMAN. Mr. McCulloch.

Mr. McCULLOCH. I would like to inquire if our distinguished colleague thinks that there has been a real breakdown of local law enforcement in this field, widespread, as indicated by the last question of the chairman?

Mr. DAWSON. I think the Federal Government should be asserting itself in that field and should have done so long ago. I could go into the history of it. I could tell you the agreements that led up to the facts that brought on our present condition. For too long this country has failed to carry out the responsibility of the Federal Government.

Mr. MILLER. Mr. Chairman.

The CHAIRMAN. Mr. Miller.

Mr. MILLER. Mr. Dawson, on page 8 of your statement the chairman questioned you a little bit, and I am confused, as to the distinction you draw between the phrase "national origin" and the word "ancestry." Outside of the Indians, who of us are there in this country whose ancestors have not come from a foreign land?

Mr. DAWSON. Well, let us take the case of a person who is native-born in the United States of parents who came from Italy.

Mr. MILLER. But his ancestors certainly came from a foreign land.

Mr. DAWSON. And that is why I used it.

Mr. MILLER. What is the difference?

Mr. DAWSON. If he was born here, the phrase "national origin" would not protect him against invidious discrimination since his national origin is not Italy. That phrase would protect only his parents whose "national origin" was Italy. But if you use "ancestry," the native-born American child of Italian parents would thereby be protected. That is why I urge the addition of the word "ancestry."

Mr. MILLER. Our distinguished colleague, Mr. Powell, testified yesterday. I believe he testified that he was in favor of making the Civil Rights Commission a permanent Commission. You are in favor of extending its life for 2 years. Do you disagree with Mr. Powell's point of view?

Mr. DAWSON. I am not disagreeing with Mr. Powell. I am stating my views on what I believe to be the situation. He may be wrong. I may be wrong. I am not disagreeing with him. I think the procedure as set out here would be the best to pursue to get the results we want to get.

The CHAIRMAN. I am quite sure we are not going to make it permanent.

Mr. MILLER. Mr. Dawson, you state on page 9, under point 4, that the administration's bill to effectuate desegregation is but a pale shadow of the program of financial assistance in your bill, and that it is inadequate to meet the grave crisis we now face. I deplore the racial discrimination and intolerance in some States as much, I am sure, as do you.

Mr. DAWSON. Not quite.

Mr. MILLER. But I am wondering if we get into this whole program of Federal assistance, that is, by the Federal Government going into a State where there is intolerance existing, and where the Governor of that State insists upon avoiding desegregation, and where the people are willing to follow, by and large, that State leadership, how do you accomplish anything by going down with Federal funds and building a large school in that State?

Mr. DAWSON. You don't go down with Federal funds and simply build a large school. My bill provides that this money should be spent, I said, through the Department of Health, Education, and

Welfare to carry out a program of education among other things, and to supply funds to do what the local community will not do.

Mr. MILLER. Such as what?

Mr. DAWSON. Such as that the State legislatures will not vote money to do certain things under certain circumstances.

Mr. MILLER. I asked you what, and that is why I wanted to know, because I may be called upon to vote for those funds.

The CHAIRMAN. Mr. Holtzman.

Mr. HOLTZMAN. Would providing teachers in communities be part of that fund?

Mr. DAWSON. And it is so set up in my bill.

Mr. MILLER. To provide funds for teachers would not solve the problem if they had no place to teach.

Mr. DAWSON. If they have no place to teach we will build them schools.

Mr. MILLER. That is what I am talking about.

Mr. DAWSON. And doing the things necessary to remove this blight from our country.

Mr. MILLER. I was formerly a member of the Committee on Government Operations and as such the distinguished chairman from Illinois was my chairman and I always found him to be a very fine and very honorable and very dedicated public servant, and I am always delighted to discuss these matters with him because his opinions are always very impressive to me.

Mr. DAWSON. Thank you.

Mr. HOLTZMAN. As a former member of the same committee I join with and associate myself with the remarks of Mr. Miller.

Mr. DAWSON. Thank you, sir.

Mr. HOLTZMAN. One of the great regrets I have is having left the committee of which the gentleman is chairman.

Mr. RODINO. I too wish to associate myself with remarks of my colleagues concerning the gentleman from Illinois.

Mr. DAWSON. Thank you, sir.

Mr. MILLER. That is no reflection upon the present chairman.

Mr. McCULLOCH. Mr. Chairman, I have one other question.

The CHAIRMAN. Mr. McCulloch.

Mr. McCULLOCH. I note on page 5 of your formal statement you say you have grave doubt as to the value of the proposal to establish a so-called Commission on Equal Job Opportunity under Government Contracts. Then you say in effect that there is a present President's Committee on Government Contracts which is doing that. Well, that present Committee is, or was, created by the President who, in due course, will pass from office. It is entirely within the personal desire of whosoever occupies that office as to whether or not there will be such a Committee. If that Committee has done a useful service do you not believe that we would more surely have that service in the future if we have a Commission created by law?

Mr. DAWSON. I am not so sure. We have had this Committee since 1941 and it has done a great job. When you bring it up here for funds you have got to fight for it. I have seen them destroy the wartime FEPC in the Senate and I would rather not subject them to such hazards, if I can help it, at this time.

Mr. McCULLOCH. Mr. Chairman, it occurs to some of us that some Members of Congress might be fearful that a Democratic Congress might not do as much as the Republican President has done.

The CHAIRMAN. There need not be any fear on that score.

Mr. McCULLOCH. I am sure, Mr. Chairman, the title in my bill will be agreed to.

The CHAIRMAN. Mr. Dawson, your statement is what we expected of you, clear and constructive and instructive and we are very grateful to you for having presented it.

Mr. DAWSON. Thank you.

The CHAIRMAN. The next witness is a youthful and distinguished Member from the great State of Michigan, the Honorable John D. Dingell. Mr. Dingell.

Mr. DINGELL. Thank you very much for allowing me to be here this morning, Mr. Chairman. I would like to first present the statement of my colleague from New York, Mr. Herbert Zelenko, who asked me to express his gratitude to both the Chair and the members of the committee and to explain his high regard for the chairman both as a civil libertarian with a most outstanding record and a highly respected and well-beloved chairman of this committee and of this Congress. In those sentiments I would most wholeheartedly like to concur and subscribe.

The CHAIRMAN. We will insert Congressman Zelenko's statement at this point.

(Statement of Representative Herbert Zelenko is as follows:)

STATEMENT OF REPRESENTATIVE HERBERT ZELENKO, 21ST CONGRESSIONAL DISTRICT OF NEW YORK

Mr. Chairman and my distinguished colleagues, I wish to thank you for affording me this time to speak in support of H.R. 3090. This legislation is similar to many of the bills now being heard by your committee to implement and to expedite progress toward the removing of the stigma of second-class citizenry from millions of first-class Americans.

Enactment of this type of legislation is immediately necessary for we have been most dilatory after nearly 200 years of our proclaimed credo of equality for all in making this principle a fact. In today's changing and turbulent world, we hear the birth cries of new nations in achieving their independence. We hear the wails of those peoples whose equality and independence is being stifled and we see the tears of those whose equality has been taken away. These sounds and sights are apparent now not only to us in Washington but also to the Communist overlords in Moscow.

In the present world conflict, more important than the material assistance we offer these people and countries, is our promise to treat with them on the basis of freedom and equality. How can we hope to convince them of our sincerity when it is so apparent to them that millions of our own citizens are in second-class status?

Opponents of this and similar measures argue that this legislation is merely an attempt to destroy their customary and long-secured way of life. I respect their opinions but disagree with them that it is in the best interests of our Nation to maintain their status quo.

The history of short-lived nations and civilizations is undisputed in one important respect—that no nation can long exist which is built on the subjugation, in greater or lesser degree, of a large segment of its people.

We as the leaders of the free world offer to other nations the principle of equality. By what logic do we refuse it to our own people?

Let us in the spirit, heritage, and requirement of our democracy pass this legislation which is popularly called civil rights but which is freedom rights.

**STATEMENT OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN
CONGRESS FROM THE 15TH CONGRESSIONAL DISTRICT OF THE
STATE OF MICHIGAN**

Mr. DINGELL. I am a member of another committee which is meeting this morning and although I would like to talk longer before you here I will have to be a bit brief, Mr. Chairman.

I have never known a man for whom I have had more respect and regard than the outstanding chairman of the great Committee on the Judiciary of the House of Representatives.

Mr. Chairman and members of the committee, I would like to say that many of these bills proposed have a great deal of merit. I would like to associate myself with the chairman of the distinguished committee and urge enactment of his bill which I feel would be a great deal stronger and which would offer a great deal more advance, much faster than the administration's proposal offered by our distinguished colleague, the gentleman from Ohio, Mr. McCulloch. I want to say that any civil rights legislation if it be worthwhile and if it offers any concrete progress of course would be in the public interest. I think we should not waste our time, Mr. Chairman and members of the committee, in reporting out a piece of civil rights legislation which offers less than a long stride forward in this particular field. I am sure the members of the committee are well familiar with the bills which are already pending. I would like to comment briefly on two of them, Mr. Chairman, and to let my written statement apply to the others.

The first that I wish to refer to is the bill which would amend the Civil Rights Act of 1957 to make the Civil Rights Commission a permanent agency of the United States and to broaden the duties of the Congress to include investigation of all civil rights anywhere. This bill is numbered H.R. 4261. It is my feeling, Mr. Chairman, that the Civil Rights Commission has been balked, blocked, delayed, harassed, and hampered by those who oppose its purposes and principles and who seek to narrow and limit its endeavor. Unfortunately Congress in its wisdom did not give sufficient thought to the problems that this Civil Rights Commission would meet when it first enacted legislation creating this Commission. The result was that the Commission has not been able to accomplish a great deal other than to make us aware of one basic fact which I think we all knew, that many of our citizens are being denied the right to vote in many parts of this great country and that there are many who are using all efforts to deny the Federal Government its right and its responsibility to see to it that its citizens are permitted to vote without regard to race, creed, color, or ancestry.

I would like to urge, Mr. Chairman, that if the life of the Civil Rights Commission is to be extended that it should be extended indefinitely. I would further urge that the Civil Rights Commission be permitted to extend and to broaden its field to include all civil rights.

Mr. Chairman, I am sponsor of another piece of legislation which I think this committee should very well consider, and that is H.R. 352. This would authorize the Attorney General to institute on behalf of and at the cost of the United States a civil action in equity for preventive relief whenever any acts have been committed which would give rise to a cause of action under section 1980 of the Revised Stat-

utes. This would literally authorize the Attorney General to take any action to secure any rights protected and guaranteed by the Constitution of the United States on behalf of any individual or group of individuals. This section 3 of the administration's recommendation previously when it was in Congress was reduced and narrowed in the Senate of the United States. I think if we pass this particular measure or a substantially similar measure we will find that this will be a tremendous step forward.

Mr. McCULLOCH. Mr. Chairman, would the gentleman yield?

Mr. DINGELL. I would be glad to.

The CHAIRMAN. Mr. McCulloch.

Mr. McCULLOCH. Does the witness feel that there is any different attitude on this very controversial matter than there was when the House adopted it in effect last year or the year before?

Mr. DINGELL. I do not feel that there is any less need for a piece of legislation of this sort. I think certainly the House has established a very fine precedent in having adopted a piece of legislation of this sort. I know it is not included in the President's recommendation. I think it is an oversight since he said this is a good thing once before, and I don't think he would change his attitude on a matter so basic and important, nor do I feel any Member of this Congress who had previously voted for a matter of this sort could or should change his position. I am trying to answer the question, I want the gentleman to know. If the gentleman wants to ask me more questions or different questions or to elucidate on his question further I will be delighted to do my level best to do it.

Mr. McCULLOCH. I think that the answer up to this point has been clearly responsive to the question and I thank the witness very much. I interrupted when I thought the answer had been made, for the purpose of making this friendly comment. I think the gentleman will recall that a number of us on this subcommittee gave the best we had during one of the most difficult times we had in the House within my time when the title in question was enacted.

Mr. DINGELL. I would certainly like to compliment the gentleman on his vigorous efforts on behalf of this proposal during the last session. I am very well aware of his efforts and on behalf of the people of my district I want to thank and commend the gentleman. I want to express high regard for him.

Mr. McCULLOCH. And if I may go on, of course the gentleman knows the unhappy experience that was had after that time, when the bill was finally enacted by both Houses of the Congress and that title was not included. It has been my feeling that sometimes the only way that any progress can be made is by moderation and compromise and give and take and I have never thought that it served a useful purpose, if I can paraphrase a famous statement, to march them up the hill and march them down again. That is the reason I pursued this. I cannot speak for the President on this particular matter in any way whatsoever, but the experience that we had last time has left its effect on a number of people who marched up the hill and marched down again.

The CHAIRMAN. I would like to look upon it in a little different way, if I may. We should place in any kind of a bill that we present to the House as strong as possible a civil rights plan as we can

muster up or conjure up. We may not be able to get all we want, but you know the Indians used to shoot at the moon with their arrows. They knew they could never hit the moon but they thereby became expert arrow shooters.

Now we don't care what the Senate may do. We passed title III which is to my mind a very important segment of the Civil Rights Act of 1957 which I might modestly say bears my name. The Senate saw fit to delete title III. As far as I understood the administration approved title III and now I don't think it was mere oversight. I think it was deliberate for reasons best known to the administration and title III has been eliminated from the administration program. I am sorry about this, but I will do all I can to reinstate title III or something like it in the bill before us, the bill we will endeavor to present to the House. The House passed it in 1957, and there is no reason we cannot pass it again and I repeat the responsibility for taking it out, if they wish to take it out, lies with the Senate.

Mr. DINGELL. I would like to agree with the chairman and disagree with my distinguished colleague from Ohio. I feel that moderation entailed progress in the law and that there should not be vindictive action. Moderation certainly includes respect of the law, and must include progress towards equal rights for all. As the distinguished chairman said, shooting high is a necessary aspect of achieving success. If you shoot to be President of the United States you will rise high. If you shoot merely to become a streetsweeper—and I do not demean that particular profession—you will not necessarily reach higher than being a streetsweeper.

I think in this we should approach it with an awareness that section 3 was and is now good for America. It is my hope we will give the Senate a good, strong piece of legislation. Then if they want to weaken it or water it down, that of course is the Senate's prerogative. We will have the satisfaction of knowing that we in the House of Representatives have done the level best we could. I once heard a saying that it is not necessary to succeed to persevere. I don't think—and I think the prior remark would buttress my statement—I don't think that section 3 was in any way a vindictive piece of legislation or that it was less than moderate. The President in one of his press conferences said it was a very moderate thing. It substituted for criminal penalties the gentle and mild persuasion and of equity and the mild, compulsive effect and the understanding which we find in equity as opposed to the harsh and perhaps vindictive approach that we see in a court of criminal jurisdiction.

Mr. Chairman, I would like to direct myself to a bill of mine, H.R. 500, which would outlaw the transportation of explosives in interstate commerce for the purpose of destroying or injuring the person or property of another without his consent. You will note, Mr. Chairman, that this is a good deal broader than some of the other legislation that has been introduced on the same point. It applies to injury or destruction of the person or property of another, which is a good deal broader than just churches or schools. For every bombing of a church or school there have been 15 or 20, and perhaps even 50 or 100, bombings of homes, private residences, and so forth.

You will note, Mr. Chairman, that this particular piece of legislation is bottomed on the interstate commerce clause. We have a long judicial tradition on this particular subject. You will note the Lind-

bergh law which has been discussed this morning. We also include under the Federal power the fleeing from one State to another to avoid testifying or to escape criminal prosecution. We include the carrying of a stolen automobile, or other stolen property, across the State line. We also have the well-known Mann Act which affects the transportation of certain other objects in interstate commerce. There is an adequate basis in judicial tradition for this particular piece of legislation.

I would say that we add to this provision of the bill of Mr. McCulloch which would result in a still more complete proposal in that we would attack both the carriage of the explosive in interstate commerce and the freeing in interstate commerce after having committed the act of destroying the person or the property of another in one State.

So, Mr. Chairman, I do want to congratulate the members of the committee and yourself for this early hearing, to commend you for your interest in this most important subject. I want to express to you on behalf of myself and my people back home the sincere hope that this committee will report out a strong and vigorous piece of legislation, that we will not temporize or be concerned with the fact that the Senate may vote down a piece of legislation or that it will be watered down. I have no doubt that the bill will be watered down in the ordinary course of pressure in the House and the Senate, and I would say that this is all the more reason why we should at this initial stage report out strong and vigorous legislation. We seek to secure a piece of legislation which will protect the rights of all people and which will include progress for all of us within the framework of the Constitution.

Mr. MILLER. Mr. Chairman.

The CHAIRMAN. Mr. Miller.

Mr. MILLER. Mr. Dingell, I was interested in your comments concerning H.R. 352 and allied legislation that you said was very mild and that it substituted milder provisions for the criminal provisions; is that correct?

Mr. DINGELL. Yes.

Mr. MILLER. In previous bills which the Congress considered it did not substitute those provisions for the criminal statutes. It repealed no criminal statutes. We already have criminal statutes on the books that cover all these things. This injunctive provision was an addition thereto and not a substitute therefore.

Mr. DINGELL. Perhaps I gave the wrong impression. I would agree with the gentleman, and I do not urge the repeal of any existing Federal criminal statutes. Our Federal criminal statutes on this subject, including those passed in the last civil rights bill of the last Congress have been found to be sadly wanting in protecting the rights of all of our people. I do not see that the passage of H.R. 352 or any other similar legislation would result in a complete cure to the problem of securing full equality for all the people of our country that we face today, but it is a more lenient and a more gentle form of persuasion than the criminal processes which might be available but which our experience indicates would not be available under our existing criminal statutes.

I am sure that the gentleman will recall that the really strong civil rights statutes were either repealed or held unconstitutional by the

Supreme Court for one reason or another back in the 1870's and 1880's, and even the really strong codes which we had on the subject of civil rights have been eroded away except to include a few statutes today which are virtually unworkable.

The CHAIRMAN. Any other questions? We are obliged to you, Mr. Dingell for a very interesting statement.

Mr. DINGELL. Thank you, Mr. Chairman. Thank you very much.

The CHAIRMAN. Our next witness is our distinguished colleague from Pennsylvania, Mr. Carroll D. Kearns. We are very happy to have you here.

**STATEMENT OF HON. CARROLL D. KEARNS, A REPRESENTATIVE
IN CONGRESS FROM THE 25TH CONGRESSIONAL DISTRICT OF THE
STATE OF PENNSYLVANIA**

Mr. KEARNS. Mr. Chairman and members of the committee, I would like permission to place a statement in the record which I will not take the time of the committee to read.

The CHAIRMAN. It will be placed in the record.

(The prepared statement of Congressman Kearns follows:)

STATEMENT OF CONGRESSMAN CARROLL D. KEARNS

Mr. Chairman and members of the committee, I am happy to have this opportunity to appear in support of H.R. 4169, which I introduced, to establish a Commission on Equal Job Opportunity Under Government Contracts.

This proposal is an important part of the President's recommendations for civil rights legislation which he recently submitted to the Congress. Its purpose is to strengthen the well-established Federal policy of eliminating discrimination based on race, creed, color, or national origin in the employment of persons in the performance of Government contracts.

The bill would direct a Commission appointed by the President to make recommendations to the President and the Federal contracting agencies for improving and making more effective the nondiscriminatory provisions of Government contracts. The Commission would also be directed to encourage the furtherance of educational programs by nongovernmental groups for the elimination of discrimination in employment and to cooperate with State and local governments and other groups in achieving the purposes of the proposal.

The most serious aspect of racial and religious discrimination in employment is the violence which it does to American concepts of human freedom and dignity. The United States has insisted on personal rights before the world and we are judged on how we perform in regard to them. It is particularly important for the Federal Government to make certain that Federal funds shall not be spent contrary to these principles. Employment on Government contracts is created, in whole or in part, by public funds to which contributions are made on a nondiscriminatory basis. Certainly such employment should be made available to qualified persons on the same basis.

In addition to the important moral and political considerations involved, tremendous economic waste is caused by failure to train, hire, and promote people on their merits without regard to the color of their skin, the way they worship God, or the country from which they or their ancestors came. It has been estimated that discriminatory employment practices cost business and industry billions of dollars each year.

There is also the defense of our country to consider. Certain nations have supplies of manpower which we cannot hope to match. We must make up this deficiency in numbers by the training and skill of our workers and by fully utilizing their talents. Employment discriminations based on race, religion, color, or national origin seriously handicap us in this respect.

The policy expressed in this bill is not new. It is a present objective of the Federal Government to eliminate discrimination because of race, creed, color, or national origin in the employment of persons in the performance of contracts or subcontracts to provide the Government with goods or services. This policy

was expressed in Executive Order 10479, establishing the Government Contract Committee, and has been amended by Executive Orders 10482 and 10733 and supplemented by Executive Order 10557.

The present committee has assisted in producing noteworthy progress. The committee's program has been widely accepted by Government agencies, employers, and unions. For example, many leading industrial firms now emphasize in all their help-wanted advertisements that employment is offered without racial or religious discrimination.

However, the absence of a statutory basis for the work of the committee has limited the possibilities for its effectiveness. The proposal before this committee would give the Commission the prestige of congressional endorsement. Since the success of the national policy depends upon the degree of compliance which the contracting agencies are able to obtain, the added prestige would be important.

For the reasons stated, I strongly urge that H.R. 4169 receive favorable consideration.

Mr. KEARNS. I am here to testify to the merits of H.R. 4169. I present this bill to you. It is very simple in nature. Its construction is very well pointed to the purpose. It complies in every way with the President's recommendations on his civil rights program.

Being in the field of labor we probably get more complaints than you gentlemen would in your capacity on the Judiciary Committee about inequalities insofar as men and women being hired when the Government is involved in contracts so far as discrimination on race and so forth. After consulting with the administration, we felt that the solution of this matter would be to form a Commission, calling it the Commission on Equal Job Opportunities on Government Contracts and this Commission would be available to help decide on policy matters when the question of fairness or unfairness would exist on any contract where the Government is involved.

I would say to you that as I look into the picture of the future I would think that this bill would have the same weight and effect in the nondiscrimination in employment area as the Davis-Bacon Act has had in the wage field. The Davis-Bacon Act, as you know, prevents through contract wage requirements the vast resources of the Federal Government from becoming an instrument for depressing and undermining local wage standards. It seems to me it is time that we put equal job opportunities on the same firm and equitable basis. Accordingly, this bill would, in my opinion, go far toward solving many of the difficulties we face day in and day out in this area since employers will undoubtedly carry over into all their activities the fair employment practice required on their Government contracts. That is all.

Mr. McCULLOCH. Mr. Chairman.

The CHAIRMAN. Mr. McCulloch.

Mr. McCULLOCH. The administration's bill, H.R. 4457, probably contains two titles which had to be introduced as separate—if they had been introduced as separate bills would have gone to the committee on which the witness is now the senior minority member. We did not include the title 6 and title 7 in order to secure jurisdiction properly ours by reason of the fact that we considered an omnibus or a single-package civil rights bill to cover every recommendation made by the President in his message to the Congress on February 5, I believe. Mr. Chairman, I have one question that I would like to ask our colleague.

Did I understand you correctly to say that you believe that a permanent Commission on Equal Job Opportunity would serve a better purpose than the President's Committee on Equal Job Opportunity, or whatever it is called?

Mr. KEARNS. Yes, I think it would. As a matter of fact, as late as yesterday I discussed it with Secretary Mitchell and he felt that the field is so broad and extensive that it needs special attention in order to give us the relief we need. I think the President's Committee on Government Contracts has to take more abuse than we do because they write them and ask them for an opinion on every contract, practically, throughout the country where there is any discrimination charge made. And I really feel it is a specialized field.

Mr. TOLL. Mr. Chairman.

The CHAIRMAN. Mr. Toll.

Mr. TOLL. Would this be similar to the Pennsylvania Fair Employment Practice Commission?

Mr. KEARNS. Except for lack of certain administrative enforcement sanctions and the fact that this proposal is generally restricted to the area of Government contracts, it is along that line. As you well know it has worked well there. We have really fewer complaints from Pennsylvania than any other State, to be honest about it, and I think it is because of the situation we have in our State that has helped that very much.

The CHAIRMAN. Any further questions? Thank you very much.

Mr. KEARNS. Thank you very much, Mr. Chairman.

The CHAIRMAN. Our next witness scheduled is Mr. James Roosevelt, the Representative from California. Is Mr. Roosevelt here? If not, that disposes of our witnesses this morning. The Chair wishes to announce that the next meeting of the Subcommittee on Civil Rights will be Wednesday next when we shall hear from Attorney General Rogers and Mr. Tiffany, or one of the Commissioners of the Civil Rights Commission.

On Thursday we shall hear from Secretary Flemming of the Department of Health, Education, and Welfare, and Mr. Mitchell, Secretary of the Department of Labor, and a representative from the Department of Defense.

The meeting will stand adjourned until Wednesday at 10.

(Whereupon, at 11:27 a.m., the subcommittee recessed, to reconvene at 10 a.m., Wednesday, March 11, 1959.)

CIVIL RIGHTS

WEDNESDAY, MARCH 11, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE No. 5 OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess at 10:05 a.m., in room 346, Old House Office Building, Hon. Peter W. Rodino presiding.

Present: Representatives Rodino (presiding), Rogers (Colorado), Holtzman, Donohue, Toll, McCulloch, Miller, and Meader.

Also present: William R. Foley, general counsel, and Richard C. Peet, associate counsel.

Mr. RODINO. The hearing on civil rights will resume at this time. There will be no further pictures taken during the course of the testimony and the presentation of testimony.

I would like to say that this morning we have as our first witness the Hon. William P. Rogers, the Attorney General of the United States.

General Rogers, I would like to state that the chairman of the committee, Mr. Celler, is unable to be here and he regrets very much that he is unable to preside at this meeting at which you are testifying, in view of the fact that his wife is ill, and it was impossible for him to come here. He asked me to extend to you his warm greetings.

During the course of part of your testimony, Mr. Rogers, would you kindly identify the gentlemen at your side?

STATEMENT OF HON. WILLIAM P. ROGERS, ATTORNEY GENERAL OF THE UNITED STATES, ACCOMPANIED BY W. WILSON WHITE, ASSISTANT ATTORNEY GENERAL IN CHARGE OF CIVIL RIGHTS DIVISION, AND JOHN F. CUSHMAN, ACTING EXECUTIVE ASSISTANT TO THE ATTORNEY GENERAL

Attorney General ROGERS. Yes, Mr. Chairman.

This is Wilson White, Assistant Attorney General in charge of the Civil Rights Division on my right, and on my left is John Cushman, acting executive assistant to the Attorney General.

Mr. RODINO. You may proceed.

Attorney General ROGERS. Mr. Chairman, I appreciate the greeting from Mr. Celler, and I express regret that his wife is not feeling well.

I appreciate the opportunity to appear this morning to testify in support of H.R. 4457, which contains the legislative proposals recommended by the President in his special message of February 5, 1959.

This country is in a period of great progress in the field of civil rights. While there are, to be sure, starts, stops, and occasionally some backward steps, the overall picture is clearly one of forward

movement toward achievement of equality under law for all people everywhere in the United States.

There are, of course, most difficult problems in this sensitive area to be solved in the days ahead. Yet, we should not lose sight of the fact that the tensions which exist in some places have come about because of the very progress that is being made.

In other words, if we were in a situation of status quo, there would be no tensions and no problems, and there is cause for encouragement in the fact that even in areas where there is the sharpest conflict of opinion, responsible voices are pointing to the serious consequences to the Nation, the State, and the locality which are bound to flow from purely negative attitudes.

The legislative proposals which I shall discuss here this morning have been drawn in accordance with the basic guiding principle stated by the President that "any further legislation in this field must be clearly designed to continue the substantial progress that has taken place in the past few years." As the President said, our proposals "have been weighed and formulated with this in mind."

I understand that both Secretary Mitchell and Secretary Fleming will appear tomorrow to testify on those bills which pertain most directly to their departments. Accordingly, I shall limit my affirmative presentation to titles I through IV of H.R. 4457, which contain the following:

1. A proposal to strengthen the law with respect to obstruction of court orders in school desegregation cases (title I).
2. A proposal to punish flight to avoid prosecution for unlawful destruction of educational or religious structures (title II).
3. A proposal to require the preservation of Federal election records and authorizing the Attorney General to inspect them (title III).
4. A proposal to extend the life of the Civil Rights Commission for an additional 2 years (title IV).¹

1. OBSTRUCTION OF COURT ORDERS IN SCHOOL DESEGREGATION CASES

Title I of H.R. 4457 proposes to amend the Criminal Code with respect to obstructions of court orders in school desegregation cases. The measure would make it a Federal offense willfully to use force or threats of force to obstruct court orders in school desegregation cases. Upon conviction the offender could be punished by fine of not more than \$10,000 or imprisonment for not more than 2 years, or both.

Mr. Chairman, and members of the committee, this proposal is not intended to apply to a person who is named in an outstanding court order for such an individual is answerable in contempt if he violates or resists the order directed to him. It is designed to cover persons who are not in terms subject to the order, but who willfully intervene in the situation for the purpose of frustrating that order. Although the bill properly covers individual action, it is contemplated that it would be used principally in coping with concerted action.

A striking demonstration of the need for a bill of this nature is the occurrence at Little Rock in 1957 when, notwithstanding the presence of the local police force, assembly of a large mob made it neces-

¹ The same legislative proposals were introduced by Chairman Celler as separate bills. See H.R. 4338, 4339, 4342, 4344.

sary, for reasons of safety, to remove nine Negro children who had been enrolled in the Central High School pursuant to the decree of the Federal district court. If the execution of the decrees of the courts are obstructed by force or threats of force, the Federal Government should have authority to act effectively. In a democracy, disagreement with court decrees can find free expression in the available judicial or political processes. It cannot be permitted to find expression in force and thus frustrate the lawfully determined rights of individual citizens.

The Department's study shows that there is doubt as to whether the existing authority of the Federal courts is sufficient to impose effective sanctions against members of mobs—or against others who, by threats or force, willfully prevent, obstruct, impede, or interfere with the exercise of rights or the performance of duties under a school desegregation order of a Federal court. The purpose of this proposal is to remove that doubt.

The reason for the doubt in the present law is that the contempt power comes into play only when it has been found by the court that the persons charged with contempt disobeyed or resisted the decree of the court. Under Federal procedure, a person cannot ordinarily be held in contempt unless he was either a party against whom the decree was issued or was acting in active concert with a party.

In the example I have given, obviously a desegregation order cannot name the members of a mob not yet formed. Moreover, in the ordinary situation a mob is not in concert with the school board or other defendants who, whatever their personal sentiments, invariably recognize the authority of law.

Let me illustrate the inadequacy of the contempt power by referring again to the resistance to an order of desegregation in the Little Rock case. A mob was incited to resist the orders of the court concerning the operation of the school. This conduct did not involve contempt of the decree which ordered the school desegregated, since the persons responsible were not parties to that decree, and there was no proof that they acted in concert with those named in the decree. Of course, it would be possible to return to court to obtain a new injunction against mob leaders. Of course, if you did this, you would have to serve the papers and present the proof and get a new injunction. Then it would be necessary to prove subsequent acts by those named in the new injunction in order to establish a contempt, and that would be a long, drawn-out process. Obviously, this is a time-consuming procedure and is of no practical use in producing the prompt action needed to break up a mob which may be threatening the safety of children. It is for these reasons that we believe that additional legislation is needed to deal with individual or concerted action seeking to obstruct orders of the court.

The relevant obstruction-of-justice statute also appears to be inadequate. It (18 U.S.C. 1503) punishes whoever (1) "corruptly, or by threats or force, or by any threatening letter or communication," intimidates or endeavors to intimidate a witness in a U.S. court or before a U.S. commissioner or any grand or petit jury, or any official in the discharge of judicially connected duties; or (2) injures a party or witness on account of his testimony in a Federal judicial proceeding or a grand or petit juror on account of a verdict or indictment; or (3)

injures an officer on account of the performance of judicially connected duties; or (4) corruptly or by threats or force obstructs or impedes the "due administration of justice."

The use of force to obstruct an existing desegregation decree would be covered by this statute, if at all, only if it could be considered to obstruct or impede the "due administration of justice." That phrase has been narrowly interpreted to be qualified and limited by the acts specifically enumerated in the preceding portions of the statute (*United States v. Scoratow*, 137 F. Supp. 620 (W.D. Pa., 1956)), which I have just read, and to embrace only conduct similar in nature to the specifically enumerated acts. *Haili v. United States* (260 F. 2d 744 (C.A. 9, 1958)).

Thus, we find that the statute does not cover an assault upon a U.S. commissioner who had required a defendant to execute a bail bond. *United States v. McLeod* (119 Fed. 416 (C.C.N.D. Ala., 1902)). The court held that since the commissioner had already performed his duty, the assault could not have influenced or impeded the due administration of justice. And in the *Scoratow* case, the statute was held inapplicable to threats made against witnesses in the course of an FBI investigation and prior to the filing of a complaint, the conduct not being related to a pending judicial proceeding.

It is not possible to state categorically that a desegregation decree is necessarily beyond the reach of the existing obstruction-of-justice statute, 1503. It could be argued that interference with an existing order relates to a case that is still pending and thus disturbs the ordinary and proper functions of the court within the meaning of the statute.

However, there is so much doubt as to the scope of the present law that arrests of mob leaders or others by Federal authorities would be precarious and their prosecution probably unsuccessful. What is involved here, what we are trying to deal with here, are deliberate attempts by force or threats of force to frustrate Federal court orders dealing with a settled constitutional right. Such a challenge to the rule of law must be met clearly and unequivocally.

The language describing the actions covered is substantially similar to that employed by the existing obstruction-of-justice statute.¹

In other words, the language of our proposal is patterned after section 1503, except for the addition of the word "willfully." Willfulness, however, would seem to be an implicit element under the present obstruction of justice statute. *Pettibone v. United States*, 148 U.S. 197, 206 (1893). Its insertion here would make it clear that no one could be convicted without evidence of an intention to obstruct the exercise of rights or the performance of duties under a Federal desegregation decree. The defendant would have to know of the existence of the decree. We want to reach only those people who have decided to take the law out of the hands of the court and place it into their own.

The bill would grant Federal officers authority to make arrests on the spot. The offenders, of course, would be afforded every procedural protection, including indictment by a local grand jury and a trial by a local petit jury. We anticipate that making this conduct a specific Federal offense, together with the complementary power to make on-

¹ That statute now applies to: "Whoever * * * corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice, * * *."

the-spot arrests, will undoubtedly deter the formation of mobs and will help in the suppression of such mob action as may nevertheless occur. The bill, we believe, should thus contribute substantially to the safety of the schoolchildren involved.

You will note, Mr. Chairman, and members of the committee, that the bill would not apply to—

an act of a student, officer, or employee of a school if such act is done pursuant to the direction of, or is subject to disciplinary action by, an officer of such school.

The reason for this exception is that students, or others who are part of a school system, can be dealt with separately as a matter of discipline, and we didn't want the statute to appear to be in any sense of the word interfering with the operation of the school, itself.

To sum up, this is clearly a Federal problem and it calls for effective Federal action. This proposal is a specific and firm response to that proven need.

I would like to turn now to the second part of the administration's proposal which was introduced by Mr. McCulloch, and which is H.R. 4457, and it refers to the recommendation for handling the problem of bombings of schools and churches.

Our bill would make it a felony, punishable by fine of not more than \$5,000 or imprisonment of not more than 5 years, or both, to move in interstate or foreign commerce to avoid local prosecution, custody, or confinement for willfully damaging or destroying or attempting to damage or destroy by fire or explosive any building, structure, facility or vehicle used primarily for religious purposes or for the purposes of public or private education. Flight to avoid testifying in criminal proceedings relating to such offenses would likewise be punishable.

The purpose is to provide a Federal deterrent to the bombing of schools and places of worship, a type of outrage that has shocked all decent, self-respecting people. Such incidents present important problems on the national as well as the local level. They are manifestations of racial and religious intolerance that are of extremely serious national and international concern.

These bombings confront local law enforcement officials with difficult investigation and detection problems. A bombing is one of the most difficult types of crime to solve. Evidence and clues which might otherwise be available are ordinarily destroyed by the blast. Nor does the perpetrator obtain tangible "fruits," the sale or disposal of which can be traced. Moreover, since the offense is usually committed at night, there are usually no eye witnesses. To collect, sift, and analyze whatever physical evidence remains requires not only a great amount of effort and patience, but also expert training, equipment, and experience. Although local officials have been diligent in their efforts to apprehend the offenders, it is clear that the interstate aspects of the offenses require utilization of the resources and powers of the Federal Government.

When it has been requested by local authorities, the FBI has extended the full use of its laboratory facilities and has rendered effective assistance in a number of bombing incidents, including those at Clinton, Tenn., Atlanta, Ga., Peoria, Ill., and Osage, W. Va. Also to coordinate efforts to cope with the problem, the FBI has held 176 field conferences with top local law enforcement officials, attended

by over 8,000 officers representing 3,687 local law enforcement agencies. FBI representatives have discussed appropriate techniques for solving these bombings and have outlined the services the Bureau may offer local officials in their investigations.

However, there should be a clear and solid jurisdictional basis on which the FBI can proceed in these cases to make an investigation and to apprehend the persons involved. The fugitive felon approach reflects the basic principle, long maintained by the legislative and executive branches of the Federal Government, that the FBI is not a national police force and that it does not supersede local law enforcement agencies.

Our proposal would meet the situation in a moderate and practical manner. Since 1934 the Fugitive Felon Act, 18 U.S.C. 1073, has been the means for punishing persons who travel in interstate commerce with the intent to avoid prosecution under State law for certain listed felonies, or to avoid testifying in State felony proceedings. While the Fugitive Felon Act established such conduct as a Federal offense, its purpose was to supplement State law enforcement. Under the act, the FBI can and does locate and apprehend fugitives from State justice. When fugitives are arrested by the FBI, they are turned over for State prosecution and as a rule are not prosecuted for unlawful flight, except where for some reason State prosecution is impracticable or inadequate. During fiscal 1957, for example, 947 fugitives were located by the FBI proceeding under the Fugitive Felon Act. Of these only nine were prosecuted in the Federal Courts under the act.

The proposal here, the second proposal of H.R. 4457, proceeds on the same general principle and policy as the Fugitive Felon Act, to provide for Federal action as a supplement to, but not a substitute for, State and local action. It differs from the Fugitive Felon Act in some few particulars. While the Fugitive Felon Act applies to flight from prosecution for specified common law and statutory felonies our proposal would apply to flight from any prosecution for the willful destruction or damaging by fire or explosives of any educational or religious building, structure, facility or vehicle, or for attempting to do so. It would be immaterial whether the State prosecution would be for a felony or a misdemeanor. Finally, while a prosecution under the Fugitive Felon Act must be had in the judicial district from which the fugitive has fled, a prosecution under this bill could be maintained in the judicial district of apprehension.

Mr. Chairman, we believe this proposal will make it clear that this is a serious national problem. It will retain the primary responsibility for prevention and for the detection of crimes in the State, but it will give the FBI full authority to investigate and to assist in the apprehension of those responsible for these reprehensible types of crimes, and I might say in conclusion to this section of my remarks, Mr. Chairman, and members of the committee, that this proposal meets—has the entire support, full support of the Director of the FBI, Mr. J. Edgar Hoover.

I would like to turn now to part III of the proposal which concerns Federal election records.

The bill would vest in the Attorney General the authority to require the production of records and papers relating to any general, special, or primary election involving candidates for Federal office. It would also require the retention and preservation of such records

for 3 years. Willful failure to retain and preserve the records would be an offense punishable by fine or not more than \$1,000 or imprisonment for not more than 1 year, or both, and their willful theft, destruction, concealment, mutilation, or alteration, by fine of not more than \$5,000 or imprisonment for not more than 5 years, or both. In the event of nonproduction, jurisdiction would be conferred upon the Federal district courts to resolve any dispute which might arise in connection with the exercise of the authority conferred.

The purpose of the bill is to make possible more effective protection of the right of all qualified citizens to vote without discrimination on account of race. This is also an important purpose of the Civil Rights Act of 1957, which authorizes the Attorney General to institute civil proceedings for preventive relief from discriminatory denial of the right to vote. But the Attorney General's authority may be rendered relatively ineffective so long as there is lacking a suitable provision for access to voting records during the course of an investigation and prior to the institution of suit.

Proof of denial or threatened denial of the right to vote because of racial discrimination requires a showing not only that qualified persons are not permitted to register or vote, but that the denial is based on racial discrimination. This calls for evidence that individuals of a particular race had in fact either satisfactorily demonstrated their qualifications under State law or that they were able to demonstrate their qualifications and had offered to do so and were, nevertheless, not allowed to register or vote, while individuals of another race no better qualified, had been permitted to register or vote.

To assemble the necessary proof of discrimination is impracticable, if not impossible, without access to detailed information concerning applications, registrations, or other acts, tests, and procedures requisite to voting. From such information it becomes possible to determine who has been permitted to register or vote and who has not, and to make a breakdown on the basis of race. The only source of such comparative information—necessary for proper evaluation of complaints and in the preparation of cases—is the records of registrations or other action required for exercise of the franchise.

The Department of Justice has no existing power in civil proceedings to require the production of such records during any investigation it conducts as to complaints that qualified persons have been denied the right to vote in violation of Federal law. The need for this power is evident from the refusal of some State and local authorities to permit inspection. Its need is further shown by the recent experience of the Civil Rights Commission. The Commission, which does have the power to subpoena such records—although not for the purpose of enforcing voting rights—has found it necessary to utilize its power to compel production. In the recent Alabama case, in the U.S. District Court for the Middle District of Alabama (*In re George C. Wallace et al.*, No. 1487-N), Judge Johnson, in enforcing the subpoena power of the Civil Rights Commission, stated in his opinion of January 9, 1959, that the inspection of voting records "must be considered to be an essential step in the process of enforcing and protecting the right to vote regardless of color, race, religion, or national origin."

Our purpose is the considered product of experience. Two of its provisions are of particular significance. The first of these is the provision which calls for production and inspection of the records

rather than for the issuance of a subpoena. In actual operation, production would normally be at the usual place of custody of the voting records. Because of the importance of voting records and the frequent need to refer to them, we believe it preferable that the legislation should provide for inspection at their location rather than to have them removed by subpoena to some other location.

The bill provides for inspection at the office of the local U.S. attorney as an alternative in the event that their usual location is unsuitable. In other words, we thought the subpoena power might be construed as an interference with the State's power over voting, and we wanted to limit it merely to the right of inspection so we couldn't be accused of requiring the people to produce the records in Washington or somewhere else.

The second provision requiring retention of records for a period of 3 years is of the utmost importance. The practical need for such a provision has been sharply illustrated in the State of Alabama. After the commencement of a suit by the United States under the Civil Rights Act of 1957, the Alabama Legislature introduced a bill permitting destruction of the questionnaires of unsuccessful applicants for registration. Obviously, the purpose of this restriction was to obstruct the enforcement of the Civil Rights Act as passed by the Congress in 1957.

Immediately after the introduction of this bill, the Government applied for and obtained a temporary restraining order preventing destruction of the records in the county involved in the case. Within a matter of days the bill authorizing destruction of the records had been passed into law. Similar action in other States would frustrate Government inspection of the records if the preservation provision does not become law.

The Department feels that enactment of this proposal is essential to the effective enforcement of the provisions of the Civil Rights Act of 1957. It would supply the needed authority to make a reality of an underlying thesis of the act that the right of all qualified citizens to vote is the keystone of democratic government.

Turn now to the fourth provision, which refers to extending the life of the Civil Rights Commission, and I might say, Mr. Chairman, that the distinguished Chairman of that Commission, Dr. John A. Hannah, is in the room, and its Executive Director, Mr. Gordon Tiffany. I think they are going to testify following the conclusion of my statement.

But I want to refer to this because it is one of the President's proposals. It is recommended that the life of the Civil Rights Commission should be extended for an additional 2 years.

I may say, Mr. Chairman, before I conclude this, as you know, the Civil Rights Commission is not in any way associated with the Department of Justice. It acts completely independently from us, and the only reason I am referring to it here is that it is in the administration's proposal.

I would not want to create the suggestion here in anyone's mind that there is any connection. We have cooperated with them when we were asked, but we have not in any sense of the word been involved in their activity.

We ask that section 104(b) of the Civil Rights Act be amended to provide that the Commission shall submit an interim report not later

than September 1, 1959, and a final report not later than September 9, 1961. As it now stands, section 104(b) requires submission of an interim report report at such times as either the Commission or the President deems desirable, and of a final report not later than September 9, 1959.

As you know, the Civil Rights Commission was not in a position to commence operations for a number of months after enactment of the Civil Rights Act on September 9, 1957. It has performed ably and effectively since the time it became operative. Termination of the Commission's existence by September of this year would not, in the opinion of the President, give it full opportunity to make the comprehensive investigation, study, and analysis that is needed of the problems involved in this complex and difficult field.

The Commission's initial public hearing was held on December 8, 1958, in Montgomery, Ala., in connection with complaints of improper denials of voting rights. As you are aware, there has been extended litigation in that instance concerning the Commission's right to inspect election records.

The Commission has, of course, not limited itself to the question of voting rights. It has recently held a conference in New York City on racial discrimination in housing, and just last week in Nashville, Tenn., on school desegregation problems.

The outstanding success of the Commission to date proves how valuable it is and indicates that the public interest will be well served by extending its life for 2 more years.

In conclusion, Mr. Chairman, I wish to reemphasize again that the legislative proposals which we are sponsoring this morning, the first three dealing with law enforcement and the fourth one dealing with the Commission, are designed to provide the basis for continuing the substantial advances of recent years toward achieving our goal of full equality under law for all our people. We must proceed with wisdom and with understanding, with patience, and with determination.

The proposals are moderate, workable, and are necessary to continued progress. They will be helpful to proper law enforcement and are fully deserving of the favorable consideration of this subcommittee.

Thank you, Mr. Chairman.

Mr. RODINO. Thank you very much, Mr. Attorney General.

I am sure I bespeak the sentiments of the committee when I say I could not agree with you more in the concluding part of your statement, that while this is directed toward achieving the goal of equality for all of our people, and we hope this is what the committee is going to accomplish, with the help of the Congress, relating to civil rights.

Mr. Attorney General, I am going to direct some questions which probably may, in part, have been replied to, at least inferentially, by your statement, but in order that we might emphasize some of the points that I think should be brought to the attention of the committee, I would like to direct these questions to you. So if they seem to be a little bit more or less repetitious, I trust you will understand.

We will then have questions from the counsel on some technical issues, and by members of the committee.

Mr. Attorney General, some 2 years ago when Attorney General Brownell appeared before the Senate Subcommittee on Constitutional

Rights, in support of the civil rights bill, he cited a number of specific instances of the right to vote denials investigated by the Department of Justice, and he stated, and I quote:

It is a matter of common knowledge that this is a widespread problem.

This is a statement taken from the Senate civil rights hearings in 1957, on page 40.

Now, what would you say, Mr. Attorney General, to this question:

How many of those instances cited by Attorney General Brownell have been the subject of injunctive suits brought by the Department of Justice under the authority granted in the Civil Rights Act of 1957?

Attorney General ROGERS. Mr. Chairman, we have started about 19 investigations, and we have 2 major cases pending in court now under that act.

Obviously, when an act of this kind is passed, it requires some time to test it, because there are always features of it that end up in litigation, just as the reference I made in my statement indicates. In Alabama we have a case now where the district judge has dismissed it on the ground the State cannot be sued since the registrars have all resigned.

We have tried to select cases that we thought were clear cases from the standpoint of the Government, cases that would stand up in court and, as I say, we have two such cases now in court.

I have stated on a couple of occasions when I have been asked this question, we have been surprised by the fact that we have not had as many complaints as you might expect in this area. We are not sure why that is, whether people, Negroes who have tried to register in the past, have gotten discouraged and haven't tried again, or whether there is an element of fear involved, or what it is, but we haven't had as many complaints as you may have expected.

I do think that the two cases that we have now in court are the type of cases that we should bring. We thought it was desirable to select cases where the evidence seemed clear, and we have done that.

Mr. RODINO. Do you think that some of these problems that you face in presenting such cases might be due to the fact that perhaps Negroes are fearful of suing in various cases? Do you think that possibly may be a problem?

Attorney General ROGERS. I don't discount the element of fear, but I don't believe it would be fear, Mr. Chairman, of suing, because under this law the United States brings a suit. It may be they are fearful of making a complaint, but under the law, the United States brings the action so they are not afraid of suing.

It could be they would be afraid of testifying as witnesses, we don't know that. I wouldn't want to say that as a fact, because we have no way of knowing it.

Mr. RODINO. The reason why I call that to your attention is the fact that the former Attorney General, your predecessor, Mr. Brownell, indicated that it was a widespread problem, and you say that there are only two such cases now before the Justice Department.

Attorney General ROGERS. Well, I tried to make it clear why that is, Mr. Chairman. I don't think the fact that Mr. Brownell made the statement that these are widespread practices is particularly a novel statement. I think it has been made by Congress time and time again over the years.

Now the question is, "When you pass a new statute like this, how do you get the evidence?" And we have tried diligently to get the best evidence we could and present the best cases in court that we could present.

Mr. RODINO. Mr. Attorney General, again referring you to the testimony of Attorney General Brownell, he testified that in the Ouachita Parish case, over 3,400 colored voters were illegally purged from the voting lists in 1956, and again this is a statement which appears in the Senate civil rights hearings of 1957 on page 4. And subsequently the Department of Justice sought indictments in these cases.

Now my question is, "If the Department has sufficient evidence to go to the grand jury with these cases, why has it not presented them as civil cases under the Civil Rights Act of 1957?"

Attorney General ROGERS. Well, Mr. Chairman, that—the incidents you referred to occurred before the act was passed. This was an act passed in 1957. The incidents you refer to occurred in 1956, and since that time a lot of these voters have been restored to the rolls. In other words, we couldn't retroactively apply the act of 1957 to something that occurred in 1956.

Mr. RODINO. Do we know they have been restored to their rolls as a result of investigation?

Attorney General ROGERS. Well, I would think that is correct, but the point is that there has been improvement in that area and we don't think there are sufficient facts now to start a case under the 1957 act.

Mr. ROGERS of Colorado. Will the chairman yield for a moment?

Mr. RODINO. Mr. Rogers.

Mr. ROGERS. Do I understand, General Rogers, that you take the position that prior to the Civil Rights Act of 1957, that the Attorney General of the United States was powerless—to go into any area where there was a Federal election conducted, where people were discriminated against because of race, color, or creed—that you had no authority to act as Attorney General—

Attorney General ROGERS. No—

Mr. ROGERS. Prior to the Civil Rights Act of 1957?

Attorney General ROGERS. No, Mr. Rogers, quite the contrary. As a matter of fact, we presented those cases to the grand jury.

Mr. ROGERS. Well, that is the point that I am trying to get at, that prior to the Civil Rights Act of 1957 you do agree that the Attorney General, or the United States, as such, has some authority to proceed to see that a person may cast his ballot at election time regardless of race, color, or creed?

Attorney General ROGERS. By criminal procedure.

Mr. ROGERS. Only by criminal procedure?

Attorney General ROGERS. That is correct. That is why the Civil Rights Act of 1957 was passed by the Congress.

Mr. ROGERS. Yes, but the section 3 which dealt with the right of the Attorney General to obtain an injunction was eliminated, was it not?

Attorney General ROGERS. No, Mr. Rogers, the Civil Rights Act of 1957 was passed—I am speaking now about the voting section—

Mr. ROGERS. Yes.

Attorney General ROGERS. Was passed because prior to that time the only authority that the Department of Justice had in this area was to proceed by way of criminal indictment, and part of the justification for the Civil Rights Act of 1957 which we presented to the Congress was the fact that that was an unsatisfactory way to proceed. It was after the fact; it was after the person had been denied his right to vote, and then we were required to go into the locality, present the evidence to a grand jury to try to indict the registrars or those responsible for denying the right of the person to vote, and we pointed out that didn't work and we used this example that the chairman has referred to to point up the fact that we couldn't get grand juries to indict, and we urged Congress to authorize the Department of Justice to bring civil actions to prevent this from happening in the first instance, and Congress wisely, I think, responded and passed the Civil Rights Act of 1957, and under that act it authorizes the Attorney General, when a person is denied his right to vote on the ground of race or religion, to institute a civil action to prevent the discriminatory practices from occurring.

Mr. ROGERS. But you do not institute the civil action in the name of the individual, or represent that individual, but you institute it on behalf of the United States.

Attorney General ROGERS. That is correct.

Mr. ROGERS. And it was section 3 which was eliminated, which prohibits you or which does not authorize you to appear on behalf of an individual in cases other than voting cases.

Attorney General ROGERS. Mr. Rogers, I think you are confused slightly on that section 3.

The section 3 that, I think, you are referring to did not refer to voting cases. It referred to the other areas of civil rights, and that was the part that was eliminated by the Congress.

Now, the part that refers to injunctions was not eliminated.

Mr. RODINO. Mr. Rogers, at a press conference—I call your attention to a press conference that was reported by a Mr. William P. Mitchell of the Tuskegee Civic Association, which was in the Congressional Record of August 8, 1957, and it was described that at this conference there was talk of a denial of voting rights in Macon County, Ala.

This information which, so far as we know, has been public knowledge for over a year and a half now—what bothers me is that until it was exposed by the Civil Rights Commission, the Department of Justice took no action in this case, at least insofar as we know, and when it did act, it was thrown out of court because during a period of its delay, two of the three members of the Board of Registrars had resigned.

Now, the questions are: Why did the Department in this particular instance wait so long to institute action in this case?

Attorney General ROGERS. Well, Mr. Chairman, the fact is we did not have the evidence that was sufficient until we instituted the case.

We institute them just as soon as we think we can make a case. We did not institute it while the Commission was acting, when it was investigating, although we had done some investigative work down there previous to this time, because in the course of the legislative history of the act we represented to Congress that we would not use their action as a device to bring cases; in other words, we would oper-

ate separately from the Civil Rights Commission, we did not want people to charge us with using the Commission as an instrumentality for our investigations, and consequently, we waited until that was completed before we started our action.

But up until the time, shortly before the time, we started the case, we did not think we had a sufficient case to go to court. That is why we did not do it.

Mr. RODINO. May I ask, Mr. Attorney General, when the Department first received complaints from Macon County regarding this situation?

Attorney General ROGERS. I do not have that offhand, but I can put that in the record, Mr. Chairman, for you.

Mr. RODINO. Do you know when it began its investigation of the case?

Attorney General ROGERS. Well, it was before the Civil Rights Commission started its hearings, but I am not sure at what point.

Mr. RODINO. Would you be able to supply that information?

Attorney General ROGERS. Yes, I can.

Mr. RODINO. When the decision was made to file suit in the case.

Attorney General ROGERS. Yes.

(The information referred to follows:)

DEVELOPMENT OF DEPARTMENT OF JUSTICE CASE IN MACON COUNTY, ALA.

Complaints of racial discrimination in the registration of voters in Macon County, Ala., which might give rise to suit under the Civil Rights Act of 1957, were received by the Department of Justice in April 1958.

The available evidence was under consideration by the Department throughout the spring and summer of 1958, and was at that time determined insufficient for the filing of a suit. Further leads were then developed. In the late summer of 1958, the Department was advised that an investigation was about to be conducted in Macon County by representatives of the Commission on Civil Rights. Action by the Department was thereupon held in abeyance until completion of the Commission's investigation and its hearings in December. Further investigation conducted after the completion of the Commission's hearings established the basis for a suit for an injunction under the Civil Rights Act of 1957. This investigation was completed in January 1959. The suit was filed on February 5, 1959, after the completion of the legal action conducted by the Department in connection with the refusal of certain Alabama officials to honor subpoenas of the Commission for the production of registration records.

All of the evidence for the Department's suit was developed by its independent investigation.

Mr. RODINO. Are there any questions?

Mr. ROGERS. General Rogers, you are familiar with the controversy that existed in the 85th Congress dealing with the right of trial by jury for contempt of court?

Attorney General ROGERS. Yes, sir.

Mr. ROGERS. And you know that it was finally amended so that if the fine was only \$200 and the jail sentence was only—

Attorney General ROGERS. 45 days.

Mr. ROGERS. 45 days, if it was more than 45 days, he could get a trial by jury?

Attorney General ROGERS. That is right.

Mr. ROGERS. In your first section here, title 1, it defines a crime, does it not?

Attorney General ROGERS. That is right.

Mr. ROGERS. In order to constitute a crime, the individual must know that a court order is in existence, does he not?

Attorney General ROGERS. That is right.

Mr. ROGERS. Now, would not the individual who knew of the court order being in existence and who violated the court order, if he is filed against under this procedure, would be not be entitled to a trial by jury?

Attorney General ROGERS. Yes, under this proposal he would, as a crime.

I point that out in my statement, that it is a crime, and he would be entitled—not only would you have to present it to a grand jury to get an indictment, but it would have to be a petit jury, and it would be a local jury.

Mr. ROGERS. Yes. But the point is that we had quite an argument and said that he was not entitled to a trial by jury in the Civil Rights Act of 1957.

Now, you come along here and proposed to make it a crime and give him a right of trial by jury; is that right?

Attorney General ROGERS. I am not sure of the point you are making. You mean you do not think he should have a right to trial by jury or what?

Mr. ROGERS. No, I am just trying to point out what it amounts to.

To begin with, you and I, as lawyers, know that on a contempt citation for violation of a court order that there are certain limits that are inherent in the right of the court to punish, and one of them is to punish without a trial by jury of the thing with which the man is charged.

Now, in your proposal here you make it a prerequisite before the man can be charged, he must know of the court order and, as you point out in your statement, before he could be guilty under your proposal.

My question is that if he knows of the court order and he goes about wilfully and deliberately violates it, what is to keep the court from calling him in, holding him in contempt of court, and without resorting to this proposed legislation at all?

Attorney General ROGERS. Well, Mr. Rogers, I have tried to point out in my statement that under the law, unless he is named in the injunction or unless he can prove that he was actively participating with those named in the injunction, the court is powerless to hold him in contempt.

Mr. ROGERS. Didn't they hold this fellow down in Clinton, Tenn.? He was not named as a party to the original injunction.

Attorney General ROGERS. Are you speaking about Kasper?

Mr. ROGERS. Yes.

Attorney General ROGERS. He was named as a party to the injunction.

Mr. ROGERS. Not originally.

Attorney General ROGERS. Not originally, but they had to go back and get an injunction, and the acts that he committed that resulted in his incarceration were actually committed after he was named in the injunction.

Mr. ROGERS. Then you take the position that unless an individual is named specifically in the court action, he cannot be held in contempt of court?

Attorney General ROGERS. Well, I did not say that, either. I said either named or acting in concert with one named.

I do not say that; that is in the rules of civil procedure. I mean, it is not my rule; it is the court's rule.

Mr. ROGERS. What I am trying to find out is, what is there new in your proposed legislation here in title 1 that we do not already have?

Attorney General ROGERS. Well, as I have attempted to point out in my statement, at the present time, take the Little Rock situation; we had no authority to proceed against those leaders of the mob.

Mr. ROGERS. Well——

Attorney General ROGERS. If I may finish——

Mr. ROGERS. Yes.

Attorney General ROGERS. Everybody looked to the Federal Government in a situation of that kind, which causes great embarrassment to the Nation, to take some action.

The fact of the matter is, there was no action we could take except the one I have described, which would be impractical, to go back to court when you had a mob out there and to try to name the mob leaders in an injunction, which would take several days, and then you would have to have the same people committing acts which violated the injunction, and then you would have to go back and prove that they had committed a contempt of that second injunction which, by that time, the children would have been lynched and the school burned down.

What I am suggesting is that this legislation would give the Federal Government authority to proceed in that situation where it was clear that the mob leaders were trying to take the law into their own hands, and make an arrest, and then we could go before the grand jury, present the evidence, and try them before a local petit jury.

Mr. ROGERS. The point I am trying to make is, now you do not claim for a minute that this section 1 would authorize the President to call out troops, like he did in Little Rock, do you?

Attorney General ROGERS. I do not get the relevance of the question. I have not made any reference to that at all. I would hope, though, this would be a substitute for that.

Mr. ROGERS. Well, but the point is you referred to Little Rock——

Attorney General ROGERS. That is right.

Mr. ROGERS. Because the mob was great, and I do not know—do you know whether they sent a U.S. marshal down there to try to straighten this thing out first, as we ordinarily do, in the Little Rock case?

Attorney General ROGERS. I do not agree with your question. What do you mean by "as we ordinarily do"?

We had a marshal on the scene, if that is what you mean.

Mr. ROGERS. Well, you know and I know that the usual process in the enforcement of a court order is to hand it to a U.S. marshal and tell him to execute it.

If he does not execute it, he is subject to contempt of court, or if he cannot carry it out, then he reports back to the court.

Now, the point that I was getting at was whether or not the use of the U.S. marshal or the regular processes of law as we know them fell down in that instance.

Attorney General ROGERS. No, I do not think so.

Mr. ROGERS. You do not think so?

Attorney General ROGERS. No.

Mr. ROGERS. Now, going one step further, if this section 1 confines itself strictly to those cases of where an injunction has been secured in a Federal court which would direct, apparently, that any person or class of persons shall be admitted to a school, that is the injunction, or that any person or class of persons be denied admission to any school because of race or color or, approved any plan of a State or local agency which is or will be to permit any person or class of persons to be admitted to any school—now, this is then confined only to those cases wherein a civil action that has been instituted and an injunction granted as it relates to a school; is that right?

Attorney General ROGERS. That is correct.

Mr. ROGERS. May I ask you, why would you not want to include or enlarge it so that any persons deprived of their civil rights, that they be subject to an injunction that has been granted, that they be subject to this law?

Would you be willing that it be extended?

Attorney General ROGERS. Well, Mr. Rogers, I do not know of any situation where that is necessary, where there is any need for that.

I certainly would not oppose it if Congress wants to do it.

We do not want to ask for any more Federal authority than we think is absolutely necessary to solve these difficult problems.

So far as I am concerned, I think it should be limited. If Congress wants to extend it, and give the Federal Government a lot more authority, we won't object.

Mr. ROGERS. Now, let us go over to section 3 of your recommendations.

Mr. McCULLOCH. Would the gentleman from Colorado yield at this point by reason of the discussion or mention of the Federal Rules of Civil Procedure?

Mr. ROGERS. Yes, I will yield.

Mr. McCULLOCH. Mr. Chairman, I think it would serve a useful purpose by reason of the mention of that rule and the discussion thereof and the evidence that it does not cover the situation that it be read into the record at this point. I am now reading from paragraph (D) of rule 65 of the Federal Rules of Civil Procedure. I quote:

Form and scope of injunction or restraining order. Every order granting an injunction and every restraining order shall set forth the reasons for its issuance, shall be specific in terms, shall describe in reasonable detail and not by reference to the complaint or other document the act or acts sought to be restrained, and is binding only—

I am repeating now—

and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

Mr. Chairman, if the Attorney General wants to comment further on the necessity for this language, in view of the reading of that rule, why, I shall be pleased to have him do so, but I think it was clear.

Attorney General ROGERS. Yes.

Mr. McCulloch, I thank you. That, of course, is section 65 (D) of the Rules of Civil Procedure, and that is the point I referred to.

Mr. ROGERS. Well, the point I made, and in comparing that with your bill, you require that a notice—that the person must know of the court order.

Well, now, this provision that the gentleman from Ohio has just read you has the same provision, in effect, that he has got to be notified of it.

My contention is that section 1 here adds nothing whatsoever to the present power of the court, and that is what I am trying to find out. Does it add anything, and if so, where?

Mr. MILLER. Maybe counsel can explain it to you, Mr. Rogers, I think. Would you like him to?

Mr. FOLEY. I think the point that has to be kept in mind here, sir, that Mr. Rogers is referring to a contempt proceeding arising out of a civil action. Then, by the provisions of title 1—

Mr. ROGERS. You mean Congressman Rogers.

Attorney General ROGERS. Which Rogers?

Mr. ROGERS. Not the Attorney General. Let us get this straight.

Mr. FOLEY. Your contention, Mr. Rogers, what you are referring to is the contempt proceeding arising out of a civil action that is covered by the Rules of Civil Procedure just cited by Mr. McCulloch.

Mr. ROGERS. Yes.

Mr. FOLEY. Mr. Rogers' contention, the Attorney General, is setting forth a criminal provision dealing specifically with the obstruction of certain court orders so as to make a separate and distinct substantive crime.

Mr. ROGERS. But the court order that he has reference to is a civil action instituted by an individual to get a court decree saying that a person shall be admitted to school.

Well, now, that is a civil action; it is a civil action there, so we are right back where we started from, because this is limited to a civil action.

Mr. FOLEY. Oh, no.

Mr. ROGERS. A civil judgment or decree of a court. I will not argue the question any further.

Mr. RODINO. Will the gentleman from Colorado just defer until we get some of these other questions directed to the Attorney General?

Mr. ROGERS. All right.

Mr. RODINO. General Rogers, Mr. Roy Wilkins, the executive secretary of the NAACP, testified before this subcommittee in 1957 that out of some 497,000 potential colored voters in Mississippi only 8,000 were registered as voters. I think this occurred in the statement of the House civil rights hearings in 1957 on page 657.

In the record of the subcommittee hearings of last year there is also a copy of a letter from Mr. Clarence Mitchel, director of the Washington bureau of the NAACP to Mr. W. Wilson White of the Department's Civil Rights Division.

Mr. Mitchel then listed specific cases of vote denials in Mississippi.

Has the Department used its powers under the Civil Rights Act of 1957 to obtain relief in any of these cases or in any case in Mississippi?

Attorney General ROGERS. Mr. Chairman, we have not started an action. As I say, we have just two actions pending in Federal court; one in Georgia and one in Alabama, but we have several investigations

as a result of those complaints going on in Louisiana—I meant Mississippi.

Mr. RODINO. In testifying before this subcommittee in 1957, Attorney General Brownell stated with reference to his proposals, including part 3 of the 1957 civil rights bill, and I quote:

I am quite clear in my own mind that extremists on either hand will not be satisfied with these proposals.

This occurred in the House civil rights hearings for 1957 at page 592.

Do you agree with Mr. Brownell's statement that part 3, as proposed by him, was not an extremist measure?

Attorney General ROGERS. Would you want to read that question back?

(The question was read back by the reporter.)

Attorney General ROGERS. I do not think the question follows from your premise, Mr. Chairman.

Mr. HOLTZMAN. Mr. Chairman, at that point, title 3 is omitted from the administration bill this year, is it not?

Attorney General ROGERS. That is correct.

Mr. HOLTZMAN. It was part and parcel and the very core of the bill in the last Congress; would you say that is so?

Attorney General ROGERS. No.

Mr. HOLTZMAN. Would you say it was a substantial part of the civil rights bill that we passed in the last Congress, until title 3 was deleted?

Attorney General ROGERS. I think you could state part 3 was a substantial part of the proposal; yes.

Mr. HOLTZMAN. As a matter of fact, in your statement here you indicate that the Rights Commission has been in New York City, in Nashville checking into discrimination against housing?

Attorney General ROGERS. That is right.

Mr. HOLTZMAN. And the civil rights legislation on the record today applies only to voting rights, does it not?

Attorney General ROGERS. That is correct.

Well, let me say this: The civil injunctive relief provisions apply only to voting.

Mr. HOLTZMAN. And the bill H.R. 4457 of which you are speaking for today does not extend or expand the scope into fields of housing, employment, and so forth, which was title 3; is that so?

Attorney General ROGERS. It does not—there is nothing in the proposals that we have made here, these four or the other three, which would provide any additional authority for the Federal Government to start civil actions in civil rights cases.

I would not want to leave the impression that the Government does not have authority to start criminal cases in civil rights fields and other fields other than voting.

Mr. HOLTZMAN. With respect to civil actions now, do you not think, Mr. Rogers, that placing title 3 back into the civil rights field is the most important thing we can do today?

Attorney General ROGERS. Mr. Holtzman, let me first say that I think it might be helpful to the thinking of the committee if we could keep in mind that title 3 connotes a lot of different things to a lot of different people because there have been a lot of variations in title 3, and it has gotten to be sort of a word like the Bricker amendment.

People used to ask me how I stood on the Bricker amendment. Well, there were 25 Bricker amendments of one kind or another.

Mr. HOLTZMAN. Supposing we confine it to civil injunctions, then, Mr. Rogers.

Attorney General ROGERS. Well, now, the proposal that the Attorney General made, if you will recall, was the proposal which referred back to some other statutes already on the books. In fact, it referred back to title 42, United States Code, section 1985.

Now, that section, 1985, provided that individuals who were denied civil rights, and it lists a whole lot of ways it could be done, could bring a private action to obtain a money judgment against those who deprived them of their civil rights. And, as I say, we have the authority at that time to bring criminal actions for such denials.

Mr. HOLTZMAN. Well, Mr. Rogers—

Attorney General ROGERS. If I could just finish this thought—so that the proposal Mr. Brownell has been referring to, which was then loosely called part 3, said, in effect, in these instances where the Government then had the authority to bring a criminal action, that we requested authority to bring civil actions to prevent the crime from occurring, in the name of the United States.

Now, since that time there have been all kinds of variations of the concept of part 3, and I do think we should keep that in mind when we are talking about it.

Furthermore, that part 3 Mr. Brownell referred to applied only to conspiracies; it did not apply to suits against private individuals.

It applied to conspiracies only.

Now, a lot of the other proposals which we now call part 3 are much broader than the original one.

I do not want to appear to avoid the question that you asked, and I would like to come to it.

You asked me do I think it is vitally important.

Let me say this: I think as of now there is doubt, at least there is doubt in my mind, as to the wisdom of giving the Federal Government authority to start more litigation.

I appreciate that you can make an argument for it, and I think I am as anxious to make progress in this field as anybody, and I think that when people talk about just educating and understanding, and put all their emphasis on that, it is a mistake, because I do not think you can do it that way alone.

Likewise, I think if you put all your emphasis on law enforcement, you make a mistake, because this field is a good deal different from the average law enforcement problem. It does involve both law enforcement and an understanding of the problems and what it means to our Nation.

So it seems to me that we have to be pretty mature in our judgments about whether legislation which seems to favor civil rights would actually have that result, and I seriously have doubt about whether legislation requiring the Federal Government to institute more civil actions would have the result of making greater progress in this field.

Now, the Congress has authorized the Civil Rights Commission to make a study of the need for further legislation. I certainly do not think we should say that the Federal Government does not permanently need more authority. I think we should hold that open to

see how developments occur; and I think we should particularly give the Civil Rights Commission the opportunity to make a more complete study in this field and to make recommendations about further power on the part of the Federal Government in this field.

I think, Mr. Holtzman, it is very difficult when you are sitting here in Washington to get a feel for the whole problem, and I think the Civil Rights Commission holding hearings, as they have, in the South and in getting testimony from a lot of people will be in a much better position to make mature, thoughtful recommendations about the extension of Federal authority to institute litigation than we could now.

I certainly, while I have doubt about it, I am inclined to think it is better to wait, particularly in view of the encouraging developments in Virginia, where there was no Federal intervention of any kind.

So I just want to complete this long answer by saying I am just as thoroughly convinced of the need of progress in this field as anybody.

I have some doubt about whether additional authority for the Federal Government to start litigation would result in substantial progress at the moment.

Mr. McCULLOCH. Will the gentleman yield?

Mr. HOLTZMAN. Oh, surely.

Mr. McCULLOCH. As a matter of fact, if we look at this from a practical standpoint, there is very little likelihood that such a proposal would get by the other body, in view of the very mild and moderate proposal that has been made over there by the majority leader. In view of our experience of 1957, I think there is complete justification for the old title 3 not being included in the bill, and I might say that that is perhaps one of the reasons that it is not in the bill.

Mr. ROGERS. Will the gentleman say that because it is not in, it is wrong, or—the question that the gentleman from New York is asking is, what does the Attorney General and the administration contend here? Do they want to proceed to protect the rights of the people by injunctions other than voting rights? That is the question that the gentleman from New York asks.

Mr. HOLTZMAN. Will you yield to me there?

Firstly, let me say that I agree completely, and I believe sincerely, that the Attorney General wants to see progress in this field, as does every member of this committee.

It is not a question of the sincerity of the Attorney General; it is a question of how best to proceed, and in recalling the Attorney General's testimony here, I remember how clearly he pointed out the need in the field of voting rights because of fear of reprisals and so on, or potential reprisals.

Wouldn't that be more true in the related fields of housing and employment and things of that kind, and isn't that an additional and better reason why the scope, as envisioned in title 3, should be reinstated in this civil rights bill we are considering?

Attorney General ROGERS. Well, Mr. Holtzman, I think that, as I say, this is a little different than the average discussion of legal matters, because particularly in the school area you have a situation where a sizable section of our country operated for years with the belief that separate but equal schools were appropriate under decisions of the Court.

So you have a problem of reversing a lot of years of experience.

The image of the Federal Government attempting to dominate the States is apt to infuriate the people in the States and localities, and it is apt to harden their resistance to the point where it makes any reasonable solution difficult.

I am not suggesting that the Federal Government should not act when it has the responsibility.

I am suggesting, though, we have to do it thoughtfully and maturely, and I think the experience in Virginia demonstrates the wisdom of that.

We were importuned on several occasions to intervene as *amicus curiae* in those cases, and we did not do it, and I think that the fact that all the cases were started by local people, that the local court was involved in the decision, and so forth, all had a very helpful effect on the whole picture.

In other words, pretty soon people started thinking about alternatives, what it meant to the State not to have a public school system.

They did not have the feeling that we had intervened, and they were sore at us, and so forth. So I do think it is a question of balance.

Now, I think that you can make out the strongest case for additional authority on the part of the Federal Government in the areas where, as you suggest, the persons involved are in fear if they bring the action themselves, and I think that is one of the things we should keep an open mind on, and if that seems to develop—

Mr. HOLTZMAN. Yes; but wouldn't that be after the thing is accomplished, the very thing we tried to avoid, with respect to voting rights?

In other words, we are back again to the situation where the thing would be a *fait accompli*, and then we would have to go seeking to remake the situation, and if we had title 3 then, perhaps, where there was a threat or an imminent danger of discrimination in the field of housing, for instance, perhaps then by intervention of the Attorney General we could prevent the thing from happening.

Attorney General ROGERS. Well, it could be.

I want to say that certainly this is not a one-sided problem at all.

I mean, I think you can make good arguments both ways, and I think that from where I sit, I am not sure that the authority to start more lawsuits, authority for the Federal Government to start more lawsuits, would be particularly helpful at this time.

I readily admit you could make arguments the other way.

Mr. ROGERS. Do I interpret your statement to mean that, as Attorney General of the United States, that you felt that you are under no obligation whatsoever to help the lower courts interpret the Supreme Court decision as it dealt with segregation in the school cases?

Attorney General ROGERS. No. I say your understanding is not right.

Mr. ROGERS. You just got through testifying that you refused to even file a brief *amicus curiae*; did you not?

Attorney General ROGERS. No, I did not say that,

Mr. ROGERS. What did you say?

Attorney General ROGERS. I said that we were importuned, not from the court—we have never refused the court to intervene—

Mr. ROGERS. I know,, but the point is that you, as the law officer of the United States, have certain duties and responsibilities.

Attorney General ROGERS. Yes.

Mr. ROGERS. And I asked you whether or not you felt, as a part of your duty and responsibility as Attorney General, to assist in the interpretation of these segregation cases that the Supreme Court has handed down.

Attorney General ROGERS. Well, the very phrase "amicus curiae" means "friend of the court."

If the court asks us to help, we help, but we do not volunteer, as a rule, and if the court needs any help, they know they can ask us, and we have done it.

What I am saying is we do not volunteer and, particularly, we do not volunteer when it would be harmful.

Mr. ROGERS. It is not a question of volunteering; it is a question, as I see it, of the duty and responsibility.

Attorney General ROGERS. You mean you think we have a duty to get into every lawsuit in the United States?

Mr. ROGERS. That is what I am asking you.

Attorney General ROGERS. Well, the answer is "No."

Mr. ROGERS. I wanted to make it clear.

Mr. RODINO. Mr. Rogers, will you defer to the gentleman on the other side?

Mr. ROGERS. Yes, Mr. Chairman.

Mr. MILLER. General, I know nothing about the decision which was handed down in the district court in the State of Alabama yesterday except what I read in the paper. But if what I read is true, I am presuming that the judgment hinges on a couple of words.

In one case the wording of the State statute is "shall" instead of "may" or vice versa which, of course, we, as Members of the Congress can do nothing about.

It also hinged on a word in the 1957 civil rights statute that you could proceed only against persons, and since the registrars have resigned, and no persons had been selected to succeed them, there were no persons, so to speak, that you could continue your case against.

As a matter of fact, I think the court, in the case that was quoted in the papers, was saying that if the Congress of the United States intended that you should be able to proceed against the State as such, on the theory that the registrars were officers or agents of the State, that the Congress would have said so.

In the light of that decision, of course, it will be on appeal, I know, and, perhaps, your judgment would be that you would rather take your chances for a construction of the statute on appeal rather than having any remedial legislation by way of amendment to the 1957 statute, but have you any comment on that, as long as we are considering the civil rights bill, as to whether or not you think if we get around to passing a civil rights bill of some sort, which I am sure we will, should we take another look-see at the 1957 statute in an effort to, perhaps, correct the situation in which you find yourself in Macon, Ga.?

Attorney General ROGERS. Mr. Miller, I appreciate your question. I think it is a particularly good one and particularly I appreciate the way you framed your question.

I think in view of the fact that the case is on appeal it would be unwise for me to make any comment about it now.

We intend to pursue the appeal diligently, and we expect to pursue it as expeditiously as possible, and we think we have a good case on appeal.

I do not want to indicate by anything I say here that we think there is any weakness in the position of the Government in that case.

Consequently, I would not at this time suggest any amendment in the law in light of that appeal.

But in the course of the litigation, in the course of the legislative history here in the Congress, we can keep those things in mind.

Mr. ROGERS. Are you through?

Mr. MILLER. Yes.

Attorney General ROGERS. I wonder, did I make myself clear, Mr. Miller?

Mr. MILLER. Yes.

Attorney General ROGERS. Thank you.

Mr. ROGERS. Along that line, and since it deals with section 3 of your proposal, to what extent and how far you feel that the Federal Government can go in connection with voting and voting records of a State?

Attorney General ROGERS. I think we can go just as far as we have asked to go in this legislation.

Mr. ROGERS. And no further?

Attorney General ROGERS. Not at the moment.

Mr. MILLER. In that connection, may I ask is the general impression which you are trying to convey here—and I think very well—that it is your position, and the position of the administration, that you are as anxious as any person to accomplish the most in the shortest period of time that you can do in the field of civil rights?

Attorney General ROGERS. That is correct.

Mr. MILLER. But it is your profound conviction, based upon your experience in the Attorney General's Office, that too much Federal legislation at this time, in the absence of a volume of complaints in other areas might create more resistance than would proceeding a little more slowly, as indicated by the administration?

Attorney General ROGERS. I agree with everything you say, with just one slight variation.

I do not think I have a profound conviction on it. I think a better way to put it is that I have doubt at the moment that further legislation permitting us to start lawsuits might do more harm than good at the moment.

I do not think we should close our minds to that possibility, if there are developments which indicate it would be helpful.

Mr. MILLER. In other words, if you received in the course of the next year numerous complaints of discriminations and violations of the basic statutes in the civil rights areas, in the fields of housing or the fields of employment, or any other fields, then you would be the first to come here and ask for additional legislation to remedy the situation.

But, as of the moment, you feel that the securing and the protection of the right to vote mainly can secure for any minority great progress in the acquisition of their total civil rights, and that as we go slowly forward you can accomplish more for those minorities than attempting to get too much government and too much power in the hands of the Federal Government at this time?

Attorney General ROGERS. Well, I do not like to rephrase the question.

I am not in favor of proceeding slowly. I am in favor of proceeding as fast as we can, but do it in an intelligent way and, I think, there is a tendency to say, "Well, here is a bill, and this is a strong civil rights bill, and if you are for the bill you are for civil rights, and if you are against it you are against civil rights."

I think that oversimplification just could be very misleading in this field.

Sometimes progress can be made a lot faster without litigation, and I have tried to say that I think that you have to gear your law enforcement pretty thoughtfully in with the development of public opinion, because if you have everybody in the State against you there is not much you can do in law enforcement that is not pretty disastrous.

Now, if you, as in Virginia, have the situation developing in such a way that responsible people realize what the alternatives are, and very simply the alternatives are you either have a public school system or you do not have a public school system, and they realize the problems that would be inherent in elimination of a public school system, and they come to that conclusion based on lawsuits that are started by their own people and, to some extent in their own courts, and they get involved in the thoughtful process rather than in the emotional process, then I think you are apt to have more progress.

Now, the minute you get the Federal Government coming down telling them how to do it, and you start lawsuits and you are litigating in court, and all the local people say, "Well, here are the Federal people down here again, and we are going to do so and so," that makes it much more difficult; you get a real strong emotional response from everybody, and it is apt to set the whole process back.

What I am saying is that in view of the fact we do have doubt now, and in view of the fact we have the Civil Rights Commission, I do not think at this time that we want to propose any additional authority.

Mr. ROGERS. I want to see if I heard you correctly.

Did I understand you to say that unless you have the sentiment of the people in the area back of the law that you are trying to enforce that it is useless to try to enforce it?

Attorney General ROGERS. No, I did not say that. I said if you have everybody in the State against it, it makes it a very difficult problem.

Mr. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. RODINO. Go ahead, Mr. Holtzman.

Mr. HOLTZMAN. Mr. Rogers, I agree with you when you say that when the people realize that a move is inevitable that they will be better able to accept a given situation.

However, I cannot see anything more sacrosanct about the right to vote—and I agree, as the President has said, that it is the keystone of democracy—but I cannot see anything more sacred about that right than the right to live free and unhampered, the right to be employed and to be given an equal opportunity in every field; and if your argument is sound, and I believe it is, that people when they realize that a thing is inevitable are more likely to accept it, wouldn't that also be true in the field of housing? Wouldn't that also be true in the field of employment?

Mr. MILLER. Is the gentleman for right-to-work laws? [Laughter.]

Attorney General ROGERS. Mr. Holtzman, on the question of employment, of course, one of the provisions of the administration proposal refers to employment.

Of course, the question of employment is not really the same as either the 14th or 15th amendments because it is a matter between private individuals.

In other words, you do not have the State involved in that situation, as a whole. We do think that employment is a very vital area, and in our proposals we deal with voting and education and employment.

Secretary Mitchell, I think, will be able to tell you in some detail the progress that has been made in the field of obtaining equal employment opportunities for all people, and we think that if Congress adopts the proposal by the President that we will have much greater progress in that field.

So that I agree with you that certainly employment is just as basic as any other right.

But I think the way we propose to deal with it is the best way to deal with it at the moment.

Mr. RODINO. Mr. Rogers, pardon me, I would like to suggest to the members of the committee, and this is without any attempt to cut them off, that we have Dr. Hannah, who is to testify after the Attorney General who, I understand, has to make a plane at 1:30, and I would like to call this to the attention of the committee members, and to ask them to make their questions as short and as direct as possible to give other members a chance. I want to be fair.

Mr. ROGERS. Mr. Chairman, I have, with your permission, a few questions to ask in connection with title III.

In your statement, Mr. Attorney General, you made reference, I believe, to the State of Alabama, which passed a law destroying the records or saying, "Get rid of them."

Now, if Alabama, Georgia, Mississippi, and some other States passed a law saying, "We will have no records of votes," or they passed a law that any records should be destroyed the next day after election, would an individual who destroyed those records be guilty of a crime under title III if the legislatures so directed them to destroy them?

Attorney General ROGERS. Mr. Rogers, referring to the first part of your question, I cannot conceive of a State trying to run an election with no records.

Mr. ROGERS. All right.

Let us assume they have the records, and they direct that within 30 days the registrars and everybody who has anything to do with the records, shall destroy them in a big bonfire on the front steps of the courthouse.

Attorney General ROGERS. Yes.

Mr. ROGERS. And they do it.

Attorney General ROGERS. Yes.

Mr. ROGERS. And this says you should keep it for 3 years; and you passed this law. They would be guilty of a crime?

Attorney General ROGERS. Yes.

Mr. ROGERS. A Federal crime?

Attorney General ROGERS. That is right.

Mr. ROGERS. That is all.

Mr. RODINO. In other words, General, you are firmly of the opinion that part III of the bill that you support would actually correct the situation that presently exists in the denial of voting rights, and you would be able successfully, to prosecute those cases that would come to your attention?

Attorney General ROGERS. That is correct, Mr. Chairman.

Mr. McCULLOUGH. Mr. Chairman, I would like to ask of my very able colleague, Mr. Rogers, this question: In view of the constitutional provision, do you think any State law which would provide for the destruction of voting records pertaining to the election of the President, the Vice President, or Members of Congress would be constitutional?

Mr. ROGERS. Well, may I say that I asked the Attorney General how far the Federal Government should go, and he said this is only as far as it should go.

So the question is historically we know that the State, the county, the city has control of the election machinery from the beginning.

Now, this is a new area we are going into.

What I want to know, and I will put it back into your lap, is how far we can go.

He says if the State passes a law authorizing election officials tomorrow to burn it, and they do burn it, according to the State law, then they are guilty of a crime.

Well now, if that is true, I want to know how far we can go in that direction and in that area. If we can go that far—

Mr. McCULLOUGH. I would be glad to answer the question propounded to me, Mr. Chairman.

I think we can safely go as far as this bill indicates, and I would be pleased now if the gentleman from Colorado would answer the very fundamental and very elemental question that I asked him.

Mr. ROGERS. Well, you and I know fundamentally where the Federal Government has jurisdiction it is supreme.

Mr. McCULLOUGH. If that is your answer it suits me.

Mr. ROGERS. But the question is how far do they have jurisdiction; that is the question that I asked.

Attorney General ROGERS. The answer is "Yes."

Mr. RODINO. Any other questions?

Mr. HOLTZMAN. I have a question.

Mr. Rogers, section 2 relates to acts in connection with the bombing of schools and churches.

Would the administration object to including bombings of homes in that provision under the same circumstances, assuming there is some interstate commerce involved?

Attorney General ROGERS. No, I do not think we would object to it.

I think probably if we include homes it ought to be related somewhat to the problem, I mean, otherwise you might get the Federal Government into all kinds of little arson cases and all kinds of things it should not be involved in.

But if the Congress thinks it would be helpful to expand this concept slightly in that regard we would not object.

Mr. McCULLOUGH. If I might interrupt, would the Attorney General object if we included all private structures, including industrial buildings?

Attorney General ROGERS. I will tell you this, the Federal Government insistently and particularly the FBI has resisted, and I think very wisely over the years, the extension of Federal power.

There is always a tendency to give the Federal Government more authority, particularly because of the outstanding success of the FBI over the years, and the confidence that the people have in the FBI.

People forget, I think, the size of the FBI.

Actually, there are only about 6,000 special agents, which is about one-fourth of the size of the New York City Police force, and about half the size of the Chicago Police force, and the FBI does cooperate very closely with State and local authorities.

They have cooperated with the police academies, where they instruct them, and so forth. We have serious reservations about extending this jurisdiction so that you could have the concept of a national police force.

So, consequently, we would like to limit it to what we think is a proven need, and there is one here, and we would like to correct it, but we do not want to go beyond that.

Mr. McCULLOCH. As a matter of fact, this field was very carefully discussed before this bill was written.

Attorney General ROGERS. Very carefully; and I have tried to consult with Mr. Hoover every step of the way and, as I say, he is entirely in support of this, but I hesitate to extend it much further because I think we can take care of the needs at the moment by this legislation.

Mr. RODINO. May I ask one further question, General Rogers? According to the Southern School News, I think, of 1958, I think there were some 145 or more laws up until that time that were passed by the States which would maintain segregation.

I would like to ask: Does the Department have a policy to make a study of the constitutionality of these laws with the idea in mind of trying to then get in some area where the Federal Government might actually move to prevent these situations from arising?

Attorney General ROGERS. Well, the answer to the first part of the question is "Yes." We make a pretty careful study of them.

I hate to give general answers in this field, because it is a very complex field.

Mr. RODINO. Yes.

Attorney General ROGERS. But we are following it very closely.

Mr. RODINO. Do you have such a study available of the various laws that have been passed?

Attorney General ROGERS. Well, we do in some States. I do not know—there are an awful lot of them, you know, and I do not know whether we have all of them for you right now. We would be glad to give you some of them.

Mr. RODINO. I would appreciate your furnishing those to us.

Attorney General ROGERS. All right, Mr. Chairman. We can do that. I think.

(The information referred to is as follows:)

LEGISLATION CONCERNING SEGREGATION AND RELATED MATTERS ENACTED SINCE 1954

This report lists legislation adopted since 1954 affecting the general field of segregation and civil rights. Of the 17 States which had compulsory school segregation prior to the 1954 decision of the Supreme Court, 11 have enacted

legislation dealing with continued segregation and related matters. For each of these States the classification system set out below has been used. Not every State, of course, has enacted laws under every heading.

- I. Policy of resistance.
 - A. Interposition and Federal-State relations.
 - B. Continued enforcement of segregation.
 - C. State defense of officials engaged in segregation litigation.
- II. Education.
 - A. Continuance of segregation.
 - B. Placement of pupils.
 - C. Cutoff of public funds.
 - D. School closing.
 - E. Tuition grants.
 - F. Provisions for continuance of education.
 - G. School personnel (as affected by desegregation).
 - H. Miscellaneous.
- III. Organizations.
 - A. Antibarratry.
 - B. Investigative committees.
 - C. Registration and licensing.
- IV. Transportation.
- V. Public accommodations and recreation.
- VI. Voting.
- VII. Miscellaneous.

A descriptive summary is provided with respect to each constitutional amendment or statute listed. Of necessity, these summaries are very brief and they do not, therefore, purport to describe fully all the aspects of the enactment involved.

ALABAMA

I. POLICY OF RESISTANCE

- A. Interposition and Federal-State relations :
 1. Act No. 42 (1956) declares that the decisions and orders of the Supreme Court of the United States relating to racial segregation are void and that that State is not bound thereby. Resolution became effective without Governor's approval.
- C. State defense of officials engaged in segregation litigation :
 1. 1956 amendment to State constitution (sec. 137) allows attorney general to defend all actions brought against State officials.

II. EDUCATION

- B. Placement of pupils :
 1. 1956 amendment to constitution (sec. 256) allows legislature to provide for "free choice" of schools, i.e., attendance at school of own race.
 2. Ala. Code Ann. T. 52, paragraph 61 (1955) provides for the administration of pupil placement and transfer in the public schools. Local school boards are given authority to assign pupils to schools on the basis of a number of standards set out in the act. Criteria include availability of facilities, scholastic aptitude and achievement, psychological factors, possibility of friction or disorder, health, morals, individual requests, and all other relevant matters. Appeals from and court review of the decisions of the boards are provided. The act also requires that no child will, on objection of his parent or guardian, be compelled to attend a school at which the races are mixed.¹
- D. School closing :
 1. Ala. Code Ann. T. 52, § 61 (13)-(15) (1958) provides that local board may close schools because of tensions or potential disorder. Hearings to be held. Closing not subject to judicial review.
- E. Tuition grants :
 1. Ala. Code Ann. T. 52, § 61(17) (1958) provides for tuition grants to pupils to attend private nondenominational schools if public schools are closed. Funds to be taken from those allocated to public schools. Also allows payment of grants for pupils whose presence would cause schools to close.

¹ Held constitutional on face in *Shuttlesworth v. Board of Education, aff'd.*, 358 U.S. 101.

2. 1956 amendment to constitution (sec. 256) authorizes this legislation.

F. Provisions for continuance of education :

1. Public school property :

(a) 1956 amendment to constitution (sec. 256) and Ala. Code Ann. T. 52, § 61 (18) (1958) provide for sale or lease for private educational purposes.

2. Private schools :

(a) 1956 amendment (sec. 256) authorizes legislature to provide for establishment of private schools. States that "Nothing in this constitution shall be construed as creating or recognizing any right to education or training at public expense."

3. Compulsory attendance :

(a) By T. 52, § 297, Ala. Code Ann., compulsory attendance law was amended in 1956 to provide that admissions are on individual basis by application to local board and that each child may choose whether or not to attend a school for his own race.

G. School personnel (as affected by desegregation) :

1. Protection :

(a) Ala. Code Ann. T. 52, § 19 (1958) provides that teachers of closed schools may be transferred without loss of benefits.

(b) Ala. Code Ann. T. 52, § 362 (1958) extends teacher retirement benefits to private schools in communities where public schools are closed.

(c) 1956 amendment to State constitution (sec. 139) grants judicial authority to school boards and other personnel.

2. Reprisive measures :

(a) Acts 40 and 41 (1956 special session) give Macon and Marengo County school boards authority to fire teachers who belong to organizations advocating desegregation.

III. ORGANIZATIONS

C. Registration and licensing :²

1. Over the Governor's veto, the legislature, in August 1955, enacted a statute (Act 238) requiring organizations soliciting members in Wilcox County to pay a \$100 license fee, and an additional \$5 for each member signed up.

2. Act 43, 1956 special session, makes similar provisions for Marengo County.

IV. TRANSPORTATION

A. Birmingham, Ala., City Commission on March 12, 1957, enacted ordinance No. 1342-F to "reaffirm, reenact and to continue in full force and effect" a prior ordinance providing for racially segregated seating on city buses. In October 1958 this was repealed. A new provision allows driver to assign seats.

V. PUBLIC ACCOMMODATIONS AND RECREATION

A. Ordinance No. 15-57 adopted by the Montgomery, Ala., City Commissioners on March 19, 1957, prohibits interracial participation in sports or games. It penalizes the participants as well as the owners of any property who knowingly permit white and colored persons to play together. Violation of the ordinance is a misdemeanor.

B. Amendment to the Alabama constitution provides that legislature may enact laws authorizing political subdivisions to alienate public housing, parks, and other recreational facilities upon approval of local electorate (Am. 112 (1956) to sec. 94 art. IV).

C. Legislature enacted T. 47, § 62 (1)-(3) to implement these provisions.

VI. VOTING

A. In February 1959, at the special session a measure was enacted providing that registrars may destroy questionnaires of unsuccessful applicants.

B. In February 1959, at the special session a measure was enacted granting immunity of State legislators from service of legal process.

² The statutes involved in the recent Alabama case against the NAACP are general statutes enacted before 1954 requiring registration of foreign corporations.

C. Act No. 140 of the 1957 session of the Alabama legislature, passed on July 15, 1957, rearranges the boundaries of the city of Tuskegee, Ala.

D. Constitutional amendment 132, approved December 1957, in referendum provides that the legislature may enact general or local laws altering or abolishing Macon County. Report of study committee and proposed legislature to be submitted to legislature in May 1959.

ARKANSAS

I. POLICY OF RESISTANCE

A. Interposition and Federal-State relations:

1. Two resolutions of interposition adopted 1956. One became amendment 44 to State constitution. Requires general assembly to oppose in every constitutional manner, including interposition and nullification, encroachments upon State's rights and the desegregation decisions of Supreme Court. The other urges amendment to the Federal Constitution in order to assure State control of public schools.

2. Act 83 (1957) (Ark. Stat. 6-801 et seq.), creates a State sovereignty commission to "protect the sovereignty of the State of Arkansas, and her sister States from encroachment thereon by the Federal Government" and to cooperate with other States and agencies in carrying out that objective.

C. State defense of officials engaged in segregation litigation:

1. Act 86 (1957) (Ark. Stat. 80-539, 540) authorizes school districts to employ counsel to defend actions brought in connection with school duties.

2. Act 15 (1958 special session) increases financial aid for integration suits.

II. EDUCATION

A. Continuance of segregation:

1. Ark. Stat. 80-2558 (1957) prohibits State from accepting Federal vocational funds under conditions making integration mandatory.

B. Placement of pupils:

1. On March 30, 1959, Governor Faubus signed into law Act 461, which revised the earlier (1957) placement law. The revision is said to be modeled closely after that of Alabama. A major difference appears to be the elimination of geographical location of residence as a criterion of placement; otherwise the former Arkansas criteria (Ark. Stat. 80-519 et seq.) followed closely those of Alabama.

2. Act 6 (1958 special session) allows students to transfer to a school of their own race.

C. Cut-off of public funds:

1. Act 5 (1958 special session) amended by acts 466 and 151 (1959) provides for withholding State funds from integrated schools and turning over money to public or private schools which students elect to attend. Cf. II E.

D. School closing:

1. Act 4 (1958 special session) provides that the Governor may close schools faced with integration. Local option election to be held within 30 days to determine whether schools are to stay closed or reopen on a desegregated basis.

E. Tuition grants:

1. Act 46 (1959) permits direct payment of public funds to students for use at schools of their choice (Cf. II C).

F. Provisions for continuance of education:

3. Compulsory attendance:

(a) Ark. Stat. Sec. 80-1525 (1957) relieves school children of requirement of State compulsory attendance law where attendance in a racially mixed public school would result.

G. School personnel (as affected by desegregation):

1. Protection:

(a) Act 55 (1959 February) allows benefits to private school teachers.

2. Reprive measures:

(a) Act 10 (1958 special session) requires loyalty oath and list of organizations to which school personnel belong.

H. Miscellaneous :

1. S.B. 64 (1959) amends Act 9 of 1958 special session. Requires 25 percent (instead of 15 percent) of electors' to petition for recall election of school board.

2. Act 7 (1958 special session) provides for segregated classes for Negro and white students.

III. ORGANIZATIONS**A. Antibarratry :**

1. Act 16 (1958) prevents any organization except legal aid societies from furnishing free legal assistance.

2. Act 14 (1958) strengthens antibarratry law by making it illegal to solicit lawsuits or cause acts of violence aimed at fomenting suits. Includes corporations. Penalty of \$5,000, and/or imprisonment for 2 years. Specifies that act is directed toward persons interfering with public education.

3. Act 11 (1958 special session) removes the former exemption of charitable organizations from the provisions of unauthorized practice statutes (Ark. Stat. 25-209).

B. Investigative committees :

1. Cf. 1A2. The State sovereignty commission's investigative powers extend to organizations. Has subpoena powers. May examine records, etc. Fine for noncompliance.

2. Act 13 (1958 special session) allows attorney general to secure court order to visit offices of organizations to obtain evidence of interference with public schools.

C. Registration and licensing :

1. Ark. Stat. 6-817 et seq. requires recordkeeping and registration by persons concerned with promoting school integration.

2. Act 12 (1958 special session) requires organizations aiming to interfere with public schools to submit membership list and other information.

3. Ordinance No. 10,638 of the city of Little Rock (1957), requires the registration and filing of certain information by any organization upon the request of city officials. Similar ordinances were enacted in other Arkansas cities (e.g., ordinance No. 2683, North Little Rock) following a form suggested by the State attorney general.

4. Act 115 (1959) prohibits governmental agencies from hiring NAACP members.

IV. TRANSPORTATION

A. Act 81, H.B. 306 (1959) provides for assigned bus seats.

VII. MISCELLANEOUS

A. H.B. 385, requiring blood for transfusions to be labeled by race, was signed into law by Governor Faubus in April 1959.

FLORIDA**I. POLICY OF RESISTANCE****A. Interposition and Federal-State relations :**

1. Senate Concurrent Resolution No. 17-XX of 1956 special session of Florida Legislature (laws 1956 p. 401) denounces "usurpation of power by Supreme Court of the United States" and urges action with respect to amendment to U.S. Constitution concerning reserved power of States. The Senate Concurrent Resolution refers to various Supreme Court decisions which are held to be unwarranted, including the Brown case and several others.

2. House Concurrent Resolution No. 174 of the 1957 session of the Florida Legislature invokes the doctrine of interposition. The resolution states that certain decisions of the U.S. Supreme Court have usurped powers reserved to the States and declares that a contest of power has arisen between the State of Florida and the U.S. Supreme Court. The resolution declares that "it is the intent and duty of all officials, State and local, to observe honorably, legally, and constitutionally, all appropriate measures available to resist these illegal encroachments upon the sovereign powers of this State."

II. EDUCATION

B. Placement of pupils :

1. Fla. Stat. Ann. 230.23(4)a (1955) provides for establishment of attendance areas and maintenance of separate schools by the local board of education.

2. Fla. Stat. Ann. 230.232 (1956) provides for management of public schools at the local level, prescribing student admission policies and placement plan. County board of public instruction authorized to provide for enrollment in public schools taking into account psychological and intangible socioscientific factors in order to prevent class consciousness among pupils. Appeals procedure provided.

D. School closing :

1. Fla. Stat. Ann. 230.233 (1957) provides for the automatic closing and suspension of operation of any public school in the State at any time military forces are employed or used under Federal authority at or in the vicinity of the school. Boards of public instruction are authorized to take action for closing and transferring pupils under the act.

G. School personnel (as affected by desegregation) :

1. Protection :

(a) Fla. Stat. Ann. 231.36 (1956) provides for the selection and dismissal of teachers by public school officials without regard to prior contractual relationship. Whenever county board required to consolidate school program by bringing together pupils previously assigned to separate schools, county board may determine which teacher shall be employed for service at the school and any teacher no longer needed may be dismissed.

III. ORGANIZATIONS

B. Investigative committees :

1. Chapter 57-125 (S.B. 347) (1957) provides for joint legislative committee to investigate activities of organizations advocating violence or a course of conduct constituting violation of Florida laws. Expresses belief that Communist Party is trying to foment racial agitation. Report due 1959 session.

IV. TRANSPORTATION

A. Ordinance No. 741, enacted by the city commission of Tallahassee on January 7, 1957, provides for emergency powers to be exercised with respect to the seating of patrons on city buses. Ordinance provides for seating at the direction of the bus driver and makes refusal to obey a misdemeanor.

V. PUBLIC ACCOMMODATIONS AND RECREATION

A. Ordinance No. 913, enacted by city of Sarasota, September 4, 1956, provides for clearing of public beaches within city's corporate limits whenever members of different races enter thereon. Police authorized to clear beaches under such circumstances, and violation is punishable.

VI. MISCELLANEOUS

A. Fla. Stat. Ann. 14-021 and 022 (1956) confer upon Governor emergency powers to quell disturbances at public parks, buildings, or other facilities, and to quell riots, unlawful assemblies, and other disturbances.

B. Fla. Stat. Ann. 14-022 (1956) confers on Governor additional power to prevent and subdue acts of violence. Act provides for issuance of proclamations of states of emergency and for the quelling of riots, unlawful assemblies, or other violence. Continues to 1961.

GEORGIA

I. POLICY OF RESISTANCE

A. Interposition and Federal-State relations :

1. H.R. No. 185 of 1956 session of General Assembly of Georgia provides for interposition or nullification. Resolution declares segregation decisions of Supreme Court void and invokes doctrine of interposition. (Acts 1956, p. 642)

2. House Resolution No. 174 (Res. Act No. 1) of the 1957 regular session of the Georgia General Assembly, calls on U.S. Representatives in Congress

from the State of Georgia to introduce a resolution of impeachment against the Chief Justices and five Associate Justices of the U.S. Supreme Court. (Laws 1957, p. 553)

3. Georgia Laws 1958, p. 13. Resolution censures troop use in Little Rock.

4. Governor orders State militia not to obey any directive from U.S. Government until constitutionality certified by the Governor. 3 RR 1081 (1958).³

B. Continued enforcement of segregation:

1. Act No. 197 of the 1956 session of the General Assembly of Georgia, passed February 27, 1956, provides for the discharge of and forfeiture of retirement and other benefits by State officers who fail or refuse to enforce State's segregation laws, and criminal sanctions. (Ga. Code Ann. 32-801 to 804, 9916)

2. Ga. Code Ann. 92A-242 (1956) provides that the State patrol and the Georgia Bureau of Investigation shall enter any locality upon request of any citizen to enforce segregation laws of State.

C. State defense of officials engaged in segregation litigation:

1. Ga. Code Ann. 24-2921 (1956) provides for State attorneys to defend or represent any State employee or official involved in litigation or Federal investigation as a result of his having enforced the State's segregation laws. A recent 1959 act clarifies the Governor's authority to supply counsel for segregation suits.

II. EDUCATION

A. Continuance of segregation:

1. House Resolutions Nos. 8 and 11 of the 1957 regular session of the Georgia General Assembly provide that the Georgia Commission on Education may conduct hearings to obtain information relevant to drafting legislation dealing with education. Subpena power granted. (Ga. Code Ann. 32-3113, 3114, 9919.) The commission was established in 1953 with the stated purpose of formulating plans whereby the State may provide education for all its citizens consistent with the provisions of the Constitution of the United States and the Constitution of the State of Georgia (which, as stated in the preamble to the act, provides for separate education of white and colored). (Ga. Code Ann. 32-3101 and preceding note.)

C. Cutoff of public funds:

1. H.R. No. 243, General Appropriation Act for Fiscal Year 1957 provides, in part, that no funds appropriated thereby shall be used for any public educational facility in which the races are not separated. Provisions appear in sections 7 and 8. (Laws 1957, p. 753.)

2. Ga. Code Ann. 32-801 (1957) prohibits expenditure of public funds for nonsegregated schools. All schools in district must be segregated. (Penalties, 32-9918.)

3. Ga. Code Ann. 32-802 (1957) voids all appropriations if schools integrate.

4. Ga. Code Ann. 32-803 (1957) holds school officials personally liable for funds paid out to nonsegregated schools.

5. Act passed February 1959, removes power of localities to levy taxes for support of mixed schools.

D. School closing:

1. Ga. Code Ann. 32-805 et seq. (1956) provides Governor shall order all county schools closed if no longer entitled to State funds—i.e., if desegregation appears unavoidable in any one school. Children will receive grant for education. (Cf. II E. Const. 2-7052.)

2. Act passed February 1959, authorizing Governor to close any unit of the University of Georgia when necessary for peace, dignity, and good order of State.

3. February 1959 act passed providing for closing of one school within a system if ordered integrated rather than complete system.

E. Tuition grants:

1. In the general election of November 2, 1954, the electorate voted to adopt a constitutional amendment authorizing the general assembly to provide for State, county, or municipal funds to citizens of Georgia for educational purposes "in discharge of all obligations of the State to provide an adequate

³ Race Relations Law Reporter, Vanderbilt University, Nashville, Tenn.

education for its citizens." Ratified November 2, 1954—Section XIII and 2-7502.

2. Ga. Code Ann. 32-806, 807, 808 (1956) provides for amounts of grants and method of distribution.

3. Ga. Code Ann. 32-9917 (1956) provides penalty for using tuition grants for religious sectarian education.

F. Provisions for continuance of education:

1. Public school property:

(a) Ga. Code Ann. 32-809, 810 (1957) provides for leasing of public school property for private school purposes.

2. Private schools (cf. E 1 and F 1a):

(a) Ga. Code Ann. 32-811, 9918 (1956) prohibits operation of any private school not having a certificate from State fire marshal.

(b) Act passed February 1959 provides tax benefits for contributors to private schools.

3. Compulsory attendance:

(a) Ga. Code Ann. 32-2117 provides for suspension of compulsory attendance law upon a proclamation by the Governor because of public disorder or disturbance of the peace. May suspend in part or all of State (1957).

G. School personnel (as affected by desegregation):

1. Protection:

(a) Ga. Code Ann. 32-2901 (1956) provides for bringing teachers in certain privately operated schools into the State teachers' retirement system.

(b) Ga. Code Ann. 32-2931 (1957) provides for continuing retirement benefits to teachers and other public school employees who accept employment in private nonsectarian schools where students are eligible for State grants.

III. ORGANIZATIONS

A. Antibarratry:

1. Ga. Code Ann. 26-4703 et seq. (1957) defines and provides punishments for the crime of barratry. Corporations are included as liable parties. In addition to suggesting litigation the offense includes commission of any act tending to breach of the peace with the intent that such act result in a law suit.

B. Investigative committees:

1. Act 18, 1958 (laws p. 101) establishes commission to investigate persons and groups causing strife and promoting litigation. To report to 1959 session of assembly.

IV. TRANSPORTATION

A. Ga. Code Ann. 18-223, 224 (1956) requires intrastate passengers to use and common carriers of passengers in intrastate travel to provide separate waiting rooms and other facilities for white and Negro passengers. Exempts arresting officer from actions for false arrest, etc.

B. Ga. Code Ann. 18-9918-9919 (1956) provides criminal penalties for intrastate passengers who do not observe segregation in waiting rooms.

VI. VOTING

A. Ga. Code Ann. 34-101 et seq. (1958) tightens voting and registration requirements. Thirty-question examination test to be required of persons who cannot qualify for registration by reading and writing a section of the Constitution.

B. Ga. Code Ann. 40-211 to 217 (1957) makes provision for conferring additional emergency powers upon the Governor. Those powers are to be exercised in maintaining public order upon the proclamation of the Governor. Powers include regulating use of all public facilities.

LOUISIANA

I. POLICY OF RESISTANCE

A. Interposition and Federal-State relations:

1. House Concurrent Resolution No. 10 of the 1956 session of the Louisiana Legislature, enrolled May 29, 1956, interposed sovereignty of the State against the "encroachment upon the police powers reserved to" the States.

B. Continued enforcement of segregation :

1. House Concurrent Resolution No. 9 of the 1956 Louisiana Legislature, enrolled May 29, 1956, provides for continuing Joint Legislative Committee in operation which had been created by House Concurrent Resolution No. 27, 1954, for the purpose of "Carrying on and conducting the fight to maintain segregation of the races" in the State.

C. State defense of officials engaged in segregation litigation :

1. Amendment No. 48 to constitution blocks suits against public school boards and departments and recreation commissioners by making them agencies of the State government. Amends article XIX by adding section 26 (acts, extra session, 1956, constitutional amended p. 28).

II. EDUCATION**A. Continuance of segregation :**

1. Amendment to section I, article XII of Louisiana constitution (1954) makes following provisions: Legislature shall provide for public educational systems; all public schools to be operated on segregated basis, as was formerly required; sets forth reasons for segregation—exercise of State police power, to promote public health, morals, etc.—and provides that legislature may enact laws to enforce such police power. Also provides that amendments may be voted on at special elections.*

2. La. Rev. Stat. 17:331 (1954) implements constitutional amendment by invoking the State's inherent police power to protect the public peace by operating separate schools. Requires segregation.*

3. Act 319 (1956) La. Rev. Stat. 17:341-346 "freezes" school segregation in New Orleans. Provides that on the date the act became law, all public schools then white must remain white, and all then Negro must remain Negro; sets up a four-member "Special School Classification Committee" of legislators, to designate newly built schools as white or Negro, and to rule on request for reclassification; provides that white and Negro students must be taught by teachers of their own race; sets up the State as only legal defendant in any suit contesting the act, and requires the consent of the legislature for suits against the State on the provisions of the act.

B. Placement of pupils :

1. Act 259 H.B. 945 (1958) is patterned closely after Alabama placement law. Repeals all conflicting laws, including 17:81.1 La. Rev. Stat. which was enacted in 1954 and authorized parish superintendent to assign pupils to schools, with no criteria furnished. This earlier placement law was held unconstitutional in *Bush v. Orleans*.

C. Cutoff of public funds :

1. La. Rev. Stat. 17:332, 333, 334 requires state board of education to withhold approval of any school violating the State's segregation provisions and to deprive school of free books, lunches, etc. Penalty of \$500 to \$1,000, 90 days to 6 months imprisonment.

D. School closing :

1. Act 256 (1958) (La. Rev. Stat. 17:81.2) authorizes the Governor to close any racially mixed school or school under court order to desegregate. The act provides for alienation of school properties to private persons who would operate them as segregated schools.

E. Tuition grants :

1. Constitutional amendment to section I, article XII of the constitution of Louisiana provides for financial assistance to students attending nonsectarian elementary and/or secondary school, and the use of public funds therefor. (1958 acts, p. 1391)

2. Act 258 (H.B. 944) (1958) provides for a system of educational expense grants for children attending nonsectarian nonpublic schools where no racially separated public school is provided.

F. Provisions for continuance of education :

1. Public school property:

(a) See II D-1

* Held unconstitutional in *Bush v. Orleans*, cert. denied, 354 U.S. 921.

2. Private schools:

(a) Act 257 (H.B. 943) (1958) provides for educational cooperatives to conduct private elementary or secondary schools or educational facilities in former public school property.

3. Compulsory attendance:

(a) La. Rev. Stat. 17:221 (1956) provides for suspension of compulsory school attendance law where integration of the races has been required by court or other order.

(b) Act 256 (1958) suspends compulsory education requirement for children whose schools are closed by desegregation.

G. School personnel (as affected by desegregation):

1. Protection:

(a) Act 187 H.B. 941 (1958) provides for continued payment of salary per diem, etc., to any State or local school official or employee during the time necessarily spent by such person away from his duties as a consequence of Federal action relating to integration or mixing of races in the public schools of Louisiana.

(b) Act 256 (1958) section 5 provides for protection of salary, tenure, retirement, and other benefits for school personnel affected by school closing.

2. Reprisive measures:

(a) La. Rev. Stat. 17:443 and 17:462 (1956) provide for additional causes for the removal of permanent teachers in public school systems, including membership in any organization prohibited from operating in the State by injunction or law or the advocacy of integration of the races in the public schools.

(b) La. Rev. Stat. 17:523 (1956) provides for additional causes for removal of school employees (other than teachers) of public schools of Orleans Parish including membership in organization prohibited by law or injunction from operating in State or of advocating racial integration in public schools.

(c) La. Rev. Stat. 17:493 provides similar grounds for removal of school bus drivers.

H. Miscellaneous:

1. La. Rev. Stat. 17:2131-2135 (1956, act 15) provides certain requirements for entering publicly financed institutions of higher learning. Certificate of eligibility and good moral character must be signed by superintendent of education of county, parish, etc., and by principal of high school from which graduated. Requires statement to be filed 30 days or more in advance of opening session. Penalty for admission contrary to these provisions is \$500 and/or 6 months imprisonment. Held unconstitutional in *Ludley v. L.S.U.*, cert. denied, October 13, 1958.

IV. TRANSPORTATION

A. La. Rev. Stat. 45-1301 to 1305 (1956) provides that common carriers of passengers in State shall provide separate waiting rooms and other facilities for white intrastate passengers, for Negro intrastate passengers, and for interstate passengers. Maximum penalty \$500 and 6 months imprisonment.

B. Act 261 H.B. 957 (1958) repeals sections 194, 195 and 196 of title 45 of the Louisiana revised statute of 1950 requiring segregation on motor carriers.

C. Act 262 H.B. 958 (1958) repeals sections 731, 732, and 733 of title 45 of the Louisiana revised statute of 1950 requiring separate accommodations on railways.

V. PUBLIC ACCOMMODATIONS AND RECREATION

A. La. Rev. Stat. 4:451 (1956) prohibits interracial participation and integrated seating at sports events or social functions. Held unconstitutional in *Dorsey v. State Athletic Commission* (E.D. La., November 28, 1958).

B. La. Rev. Stat. 33:4588.1 (1956) provides for operation of all public recreational facilities on segregated basis.

C. La. Rev. Stat. 23:971-974 (1956) requires employers to furnish separate sanitary and other comfort facilities for white and Negro employees. \$1,000 maximum fine, 1 year imprisonment.

VI. VOTING

A. Act 482 (1958) La Rev. Stat. 49:255, gives the attorney general authority to defend and assist registrars and deputies whose official acts are investigated or challenged by Federal authorities.

B. Act 483 H.B. 952 continues salaries of registrars of voters and employees in event time is spent away from duties as a consequence of Federal action relating to integration.

VII. MISCELLANEOUS

A. Act 519 S.B. 12 (1958) provides that all human blood used or proposed to be used for blood transfusions shall be labeled according to the race of the donor.

MISSISSIPPI

I. POLICY OF RESISTANCE

A. Interposition and Federal-State relations:

1. Miss. Code Ann. 9028-31 et seq. (1956) provides for creation of a State sovereignty commission to take action "to protect the sovereignty of the State of Mississippi, and her sister States, from encroachment thereon by the Federal Government or any branch" etc.; and to resist the usurpation of the rights and powers reserved to the State of Mississippi. Appropriates \$250,000 for the commission.

2. Chapter 254, Mississippi laws of 1956 (interposition and nullification) was enacted "to give effect to the resolution of interposition" which had previously been enacted (laws, 1956, 195a p. 303).

3. Senate Concurrent Resolution No. 125 of the 1956 regular session of the Mississippi Legislature adopted February 29, 1956, provides for interposition and nullification. Condemns "usurpation" of the reserved powers of the State by the segregation decisions of the Supreme Court. Calls on sister States and Congress for redress of grievances.

B. Continued enforcement of segregation:

1. Miss. Code Ann. 2056(7). Conspiracy statute subjects to prosecution persons conspiring "to overthrow or violate the segregation laws of this State through force, violence, threats, intimidation or otherwise." Punishment is a fine of not less than \$25 or 1 month to 6 months in jail or both.

2. Miss. Code Ann. 4065-3 (1958) provides that executive officers of State and local governments must preserve segregation.

C. State defense of officials engaged in segregation litigation:

1. Miss. Code Ann. 3841.2, .3 (1958) provides that the attorney general is authorized to advise and represent public officials investigated by the Federal Civil Rights Commission.

II. EDUCATION

A. Continuance of segregation:

1. Miss. Code Ann. 6220.5 (1955) prohibits persons of the white or Caucasian race from attending schools of high school level and lower, wholly or partially supported with State funds, which are also attended by a member or members of the colored or Negro race. Penalty up to \$25 fine and/or 6 months' jail sentence.

2. Miss. Code Ann. 6328-01, et seq. (1953) with some amendments 1956 and 1958, provides for redistricting of schools and equalization of facilities between the races.

B. Placement of pupils:

1. Miss. Code Ann. 6334-01 to 07 provides that board of trustees of district assigns applicants. Board to consider educational needs and welfare, health, morals, and all other relevant factors. Appeals are provided to county board and circuit court.

D. School closing:

1. Miss. Code Ann. 6232-21 et seq. authorizes Governor to close one or more schools in any district or any institution of higher learning when he considers it in best interest of pupils or institution or to preserve public peace and tranquility of community or school. Provides \$500 penalty for entering closed premises or 30 days in jail. Attempts to provide for compliance

with constitutional requirement of 4 months of free public education per year (sec. 205) by allowing board of trustees to determine when to furnish the instruction.

Above legislation made possible by 1954 amendment to constitution (sec. 213 B) Cf. E 1.

E. Tuition grants:

1. 1954 amendment to the Mississippi Constitution perhaps paves the way for such legislation. It (a) authorizes the legislature by two-thirds vote to abolish and to authorize the counties and school districts to abolish the public schools of the State; (b) authorizes legislature to enact suitable laws to dispose of school buildings and property by lease, sale or otherwise; (c) authorizes the legislature to appropriate funds to aid children of the State to secure an education (Miss. Const. section 213 B).

F. Provisions for continuance of education:

1. Public school property:

(a) H.B. 273 (1958) Miss. Code Ann. 6328-101 et seq. provides for sale or lease of school buildings no longer used for public education to groups, clubs, corporations, or political subdivision for civic center, library or other public building—or for industry. Reverter if not used for specified purpose. Authorized by 1954 constitutional amendment (sec. 213 B).

3. Compulsory attendance:

(a) House bill No. 31 of the 1956 regular session of the Mississippi Legislature, approved February 24, 1956; repeals various sections of the Mississippi codes of 1930 and 1942, providing (6509 et seq.) for compulsory education. Made possible by 1954 amendment to constitution (sec. 213 B) which authorizes abolishment of public schools. Cf. E 1.

G. School personnel (as affected by desegregation):

2. Reprisive measures:

(a) Miss. Code Ann. 6282-41 to -45 requires teachers to file affidavits as to all organizations to which they have belonged during the preceding 5 years or to which they make regular contributions. Penalties for non-compliance are voiding of contract. Perjury prosecution for false affidavit.

H. Miscellaneous:

1. Miss. Code Ann. 2006.5 provides penitentiary sentence for anyone convicted of arson of state-supported school building (1953).

III. ORGANIZATIONS

A. Antibarratry:

1. Miss. Code Ann. 8666 (1956) requires out-of-State attorneys to present evidence of good moral character, connections with organizations during past 5 years, provides misdemeanor penalty for practicing without approval of State board of bar admissions.

2. House bill No. 33 of the 1956 regular session of the Mississippi Legislature, Miss. Code Ann. 2049-01 et seq., provides penalties for the fomenting, support or agitation of litigation. Applies to organizations, corporations, and associations as well as persons. Requires affidavits as to bona fide litigation.

IV. TRANSPORTATION

A. Miss. Code Ann. 2351.7 (1956) provides criminal penalties for conviction of any person traveling in intrastate travel for using or attempting to use a waiting room not marked for persons of his race. Exempts arresting officer from possible action for false arrest.

B. Miss. Code Ann. 2351.5 requires common carriers of intrastate passengers to provide separate toilet facilities for the white and Negro races in stations and waiting rooms. Penalty for violation is \$1,000 and/or a year in jail.

C. Miss. Code Ann. 7787.5 (1956) requires common carriers of passengers in the State in intrastate travel to provide separate waiting rooms and other facilities for the white and Negro races. Provides \$1,000 fine per day.

NORTH CAROLINA

I. POLICY OF RESISTANCE

A. Interposition and Federal-State relations:

1. Special session of legislature passed a resolution protesting the U.S. Supreme Court integration decisions. (Acts, extra sess. 1956, p. 19.)

II. EDUCATION *

B. Placement of pupils:

1. N.C. Gen. Stat. 115-176 (1955, 1956) provides for placement of children by county or city boards of education, so as to provide for orderly and efficient administration of the public schools. Held constitutional on its face.
2. N.C. Gen. Stat. 115, 184, provides for assignment of pupils to certain school buses. Similar criteria set forth.

D. School closing:

1. Constitutional amendment to art. IX (sec. 12 added) provides for educational expense grants, and local option as to continuance of public schools. Expense grants provided for private education of any child to whom no public school is available or who is assigned against wishes of parent to public school attended by child of another race.
2. N.C. Gen. Stat. 115-261 (1956) provides for local option to be exercised as to whether to continue to operate public schools within local school district.

E. Tuition grants:

1. N.C. Gen. Stat. 115-274-295 (1956) provides for granting of State funds appropriated for the purpose to children assigned to public school attended by members of another race and to which assignment the parents object. 1956 constitutional amendment (art. IX) authorizes this legislation (Cf. D-1).

F. Provisions for continuance of education:

1. Public school property:
 - (a) N.C. Gen. Stat. 115.126 (1955) allows sale or lease of school property.
3. Compulsory attendance:
 - a. N.C. Gen. Stat. 115-166 et seq. makes amendments to the compulsory school attendance law to conform with provisions for educational expense grants and local option as to continuance of school. Removes requirement of school attendance in the event pupil cannot attend the private schools provided for in lieu of mixed public school.

SOUTH CAROLINA

I. POLICY OF RESISTANCE

A. Interposition and Federal-State relations:

1. South Carolina Act of February 14, 1956, No. S. 514, approved February 14, 1956, condemns "usurpation" of reserved powers of States by the U.S. Supreme Court, calls upon States to prevent this and other encroachments.

B. Continued enforcement of segregation:

1. H-2006 (1956) is a concurrent resolution commending the principles and formation of citizens councils in South Carolina.

II. EDUCATION

A. Continuance of segregation:

1. The legislature passed H. 2021 (Act 527 of acts and joint resolutions, 1956) to continue the existence and broaden the scope of a 15-member committee established in 1951 (S.C. Code 21-57) to study school segregation problems growing out of Federal court action. In its 1958 report the committee advised no further legislation.

B. Placement of pupils:

1. Code 21-230 (9) (1955) vests exclusive authority in the local school trustees or county board to place and transfer pupils and conduct hearings. Appeal procedure is provided to State courts by 21-230.1, .2; 21-247 et seq.
2. S.C. Code 21-846.1 provides for transfer of pupils in public schools where enrollment may threaten public peace. Sheriffs empowered to transfer. Repeals inconsistent acts.

C. Cutoff of public funds:

1. S.C. Code 21-2, 1955, provides that appropriations of State aid for teachers' salaries and other school appropriations shall cease for any school to which pupil made transfer pursuant to court order for the time that the pupil shall attend the school other than the school which he was assigned before the issuance of the court order.

* On May 26, 1955, legislature revised school laws (ch. 115 of N.C. Gen. Stat.) to eliminate provisions for separation of races.

D. School closing :

1. S.C. Code 22-3 and -3.1 provides for closing State-supported colleges upon admission of any pupil on court order and for concurrent closing of South Carolina State [Negro] College.
2. S.C. Code 21-230 (7) (1955) vests exclusive authority in the local school trustees or county board to operate or not operate public schools. Cf. also VII A.

F. Provisions for continuance of education :⁶

1. Public school property :
 - (a) S.C. Code 21-238 provides that trustees may sell or lease school property.
 3. Compulsory attendance :
 - (a) S.C. Code 21-761 through 769 (1955) repealed compulsory attendance. Provided for a system of visiting teachers to use reason and persuasion to obtain school attendance. (S.C. code 21-780-787).
- G. School personnel (as affected by desegregation) :
2. Repressive measures :
 - (a) S.C. Code 1-39.1 (1957) requires all State and local officers and school authorities to require written applications for employment which must include information as to the applicant's affiliation or membership in associations and organizations. Repeals a 1956 act which made it unlawful for the State or any school district to employ a member of the National Association for the Advancement of Colored People.

III. ORGANIZATIONS

A. Antibarratry :

1. Act No. 25 (S. 25) of the General Assembly of South Carolina, approved on February 8, 1957, S.C. Code 56-147 to 147.5 defines the crime of barratry as the soliciting or inciting of litigation and provides penalties of a fine of \$5,000 or imprisonment of 2 years, or both. The statute has been broadened to cover any person or corporation who brings a law suit and has no direct or substantial interest in the relief sought or brings the action with the intent to distress or harass.

B. Investigative committees :

1. Act No. 920 of the acts and joint resolutions of the 1956 regular session of the General Assembly of South Carolina provides for investigation into activities of the NAACP at the South Carolina State [Negro] College.

IV. TRANSPORTATION

A. S.C. Code 58-646 provides separate waiting and rest rooms in Florence County.

V. PUBLIC ACCOMMODATIONS AND RECREATION

A. S.C. Code 51-2.1 through 2.4 (1956) provides for withdrawal of authority to admit persons to State parks from State park officials and for racially segregated use of parks.

B. Act No. 917 of the acts and joint resolutions of the 1956 regular session of the General Assembly of South Carolina, approved February 8, 1956. Closed Edisto Beach State Park since that park was involved in Federal litigation.

VII. MISCELLANEOUS

A. S.C. Code 1-128 et seq. (1957) confers additional powers upon the Governor to provide for the protection of persons or property from violence or threats of violence. The act provides for a proclamation of an emergency by the Governor and authorizes him to utilize the military forces or other law enforcement forces to maintain or restore order. Includes ordering discontinuance of public facilities.

B. H. 2289 (1956) is a concurrent resolution asking the State Library Board to remove from circulation certain books antagonistic and inimical to the traditions of South Carolina.

⁶ In November 1952, the people of South Carolina voted to amend the constitution of that State. The amendment was ratified and became effective by action of the legislature in March 1954. It repealed that section of the constitution (sec. 5, art. 2) providing for "a liberal system of free public schools for all children between the ages of 6 and 21."

TENNESSEE

I. POLICY OF RESISTANCE

A. Interposition and Federal-State relations:

1. House Resolution No. 1 of the 1957 session protests U.S. Supreme Court decision in school segregation cases and resolves to resist any illegal encroachments upon powers reserved to Tennessee.

2. House Resolution No. 9 (interposition and nullification) of the 1957 session of the Tennessee Legislature, protests "the oppressive usurpation of power of the Supreme Court of the United States."

II. EDUCATION

B. Placement of pupils:

1. Tenn. Code Ann. 49-230 (1957) authorizes local school authorities to provide separate schools for males and females, the determination of the necessity therefor being vested with school boards.

2. Tenn. Code Ann. 49-3704 (1957) authorizes establishment of separate schools for pupils whose parents voluntarily elect that they attend schools only with members of their own race.

3. Tenn. Code Ann. 49-1741-1763 (1957) provides for assignment of pupils by county or city boards of education. Criteria include availability of facilities, scholastic aptitude and achievement, psychological factors, possibility of friction or disorder, health, morals, individual requests, and all other relevant matters, including geographical location of pupils' residence. Appeal procedure is provided.

4. Tenn. Code Ann. 49-1006, 1108, 1701 (1957) makes amendments to prior law so as to facilitate the transfer of pupils between school systems.

III. ORGANIZATIONS

A. Antibarratry:

1. Tenn. Code Ann. 39-3405-3410 (1957) defines and provides punishment for the crime of barratry. Provides that a corporation may be fined not more than \$10,000 and have its license revoked.

C. Registration and licensing:

1. Tenn. Code Ann. 39-827 to 834 (1957) requires the filing of information, including membership lists and lists of donors, by organizations, individuals and others who solicit funds to finance or maintain litigation.

2. Tenn. Code Ann. 39-5001 to 5007 (1957) requires registration of all persons and organizations who engage as one of their principal functions or activities in promoting or opposing passage of legislation in behalf of or in opposition to any race or color or whose activities cause or tend to cause racial conflicts or violence or who participate in raising funds for litigation on behalf of any race.

TEXAS

I. POLICY OF RESISTANCE

A. Interposition and Federal-State relations:

1. House Congressional Resolution 33 (1957). Legislature passed resolution objecting to effort of Federal Government to assert unlawful domination over State citizens and declaring intention to resist by legal measures all illegal encroachment on sovereign power.

C. State defense of officials engaged in segregation litigation:

1. Vernon's Tex. Stat. Ann. 2906-2 (1957) provides that the State attorney general at school board's request defend actions in Federal courts challenging the constitutionality of State school laws. S.B. 2 of 2d 1957 special session appropriated \$50,000 for this purpose.

II. EDUCATION

B. Placement of pupils:

1. Vernon's Tex. Stat. Ann. 2901a (1957), patterned after Alabama law, provides for the administration of pupil placement and transfer in the public schools. Local school boards are given authority to assign pupils to schools on the basis of a number of standards set out in the act, specifically excluding the factor of national origin. Criteria include availability of facilities, scholastic aptitude and achievement, psychological factors, possibility of

friction or disorder, health, morals, individual requests, and all other relevant matters. Appeals from and court review of the decisions of the boards are provided. The act also requires that no child will, on objection of his parent or guardian, be compelled to attend a school at which the races are mixed.

D. School closing:

1. Vernon's Tex. Stat. Ann. 2906-1 (1957) authorizes closing of school by board when Governor or board finds that violence cannot be prevented except by military force. Provides funds for out-of-classroom instruction.

H. Miscellaneous:

1. Vernon's Tex. Stat. Ann. 2900a (1957) provides for local option elections within the several school districts as to whether a dual, i.e., racially segregated school system will be operated in the district. The act also provides for criminal penalties (fine of \$100 to \$1,000) to be imposed upon school authorities who violate its provisions. In February 1959, a bill was introduced to repeal this law.

III. ORGANIZATIONS

C. Registration and licensing:

1. Vernon's Tex. Stat. Ann. 2906-3 (1957) authorizes county judge to require registration of organizations designed to interfere with operation of schools and demand membership list. Fine of \$50 to \$200 a day provided.

VIRGINIA

I. POLICY OF RESISTANCE

A. Interposition and Federal-State relations:

1. Senate Joint Resolution No. 3—interposition and nullification. Interposes sovereignty of Virginia against encroachment upon reserved powers of State and appeals to sister States. Agreed to by House of Delegates February 1, 1956.

2. H.B. 385 (1958) requires Federal orders to National Guard to be referred to Governor.

3. State commission established to promote States fight for restoration of powers. 1958 C223, Va. Code Ann. 9-48.1 through .5.

C. State defense of officials engaged in segregation litigation:

1. Va. Code Ann. 22-56.1 (1956) authorizes employment of counsel to defend school boards or members thereof in certain legal proceedings.

2. Va. Code Ann. 2-86.1 (1956) authorizes State attorney general to render legal advice and assistance to school boards with reference to the "commingling of the races" in the public schools.

II. EDUCATION

B. Placement of pupils:

1. Va. Code Ann. 22-232.1 to .17 (1956, amended 1958) provides for control of pupil assignments by central State board (as contrasted with other State plans which allow local assignment). Standards include orderly administration of public instruction and health, safety, and welfare of pupils.

2. In April 1959, H.B. 50, a local pupil placement act was passed, which provides that the State Board of Education is to promulgate rules and regulations to be used and applied by the local school boards in placing pupils. Appeals may be made to the State Board of Education. The act is to become effective March 1, 1960.

A locality must vote to come under the new act. Otherwise the State Pupil Placement Board is to assign pupils, unless the earlier law (Va. Code Ann. 22-232.1 et seq.) is invalidated by Federal court decision.

C. Cutoff of public funds:

1. 1958 biennial appropriations act (ch. 642, p. 989, 1958 acts) and preceding act of 1956 extra session, automatically cut off State funds to integrated schools. Held violative of State constitution by Supreme Court of Appeals of Virginia in *Harrison v. Day*, January 19, 1959. Amended by H.B.—L January 1959 and H.B. 40, April 1959 (items 158 A and B) providing for additional moneys to be paid from general fund of the State treasury for educational purposes (cf. E2) and removing the former requirement that allocation of school funds must be made for an efficient (defined as "segregated") school.

2. Norfolk City Council passed ordinance 19,679 in November 1958 whereby school funds were appropriated on tentative basis with right reserved to council to control and withhold. By resolution of December 20, 1958 council refused to appropriate funds for operation of schools above sixth grade. Enforcement of resolution, ordinance, and State law (22-127.1) was enjoined by Federal court in January 1959. Held violative of 14th amendment; case is on appeal. (*James v. Duckworth*, D.C.E.D. Va. January 27, 1959.) Va. Code Ann. 22-127.1, which provided that the governing body of a locality could direct school board to desist from spending appropriated funds, was repealed by S.B. 27, enacted April 1959. That act also provides for monthly appropriations by local governments.

D. School closing:

1. Chapter 68 of the acts of the 1956 extra session, Va. Code Ann. 22-188.3-15, provided for the assumption of control by the Commonwealth of Virginia of any school which was "voluntarily or under compulsion of any court order" racially integrated and the closing of such school until investigation by the Governor to determine whether school could be reopened and pupils reassigned in accordance with State's policy. If not reopened act provided for the furnishing of other facilities or the making of tuition grants to pupils. Amended and reenacted 1958, to allow Governor complete discretion as to reopening. These provisions were held violative of the State constitution in *Harrison v. Day* (supra) and of the Federal constitution in *James v. Almond*, U.S.D.C. (E.D. Va.) January 19, 1959. The legislation was repealed by H.B. 99 enacted in April 1959.

2. Chapter 69 of the acts of the 1956 extra session, Va. Code Ann. 22-188.30-40, provided for the declaration of a state of emergency in any school district in which an "efficient system" of schools was not operated under local authority (efficient system being defined as one without racial integration) and the establishment by the general assembly of an "efficient system" in such district. Held violative of State constitution in *Harrison v. Day* (supra). Repealed by H.B. 96 April 1959.

3. In April 1959, a new "Little Rock" closing act was passed, S.B. 22 authorizing school boards to close schools in any district whenever "orderly administration of the educational process is disrupted or disturbed because of the use of military forces or other personnel under Federal authority for the purpose of policing the operation of any school in the district or to prevent violence or disorder in such district." Former "Little Rock" laws, Va. Code Ann. 22-188.41 et seq., held violative of the State constitution in *Harrison v. Day* (supra) were repealed by H.B. 97 and 98 April 1959.

E. Tuition grants:

1. 1956 amendment to Virginia constitution (sec. 141) provides that funds may be used for tuition grants.

2. S.B. 32, which became law in April 1959, provides for minimum scholarship grants (up to \$250) for education in nonsectarian private schools and in public schools outside residence locality of pupil. Money to be appropriated by each locality from local and State funds provided for this purpose. Locality may supplement minimum scholarships from local revenues. Misdemeanor to seek or use funds for any other purpose. State board of education may prescribe standards for private schools which must be met to entitle child to scholarship. Repeals 1956 tuition grant law, (22-115.1 through -115.21).

F. Provisions for continuance of education:

1. Public school property:

(a) In April 1959, S.B. 20 was enacted providing that local voters may decide by referendum to force a school board to dispose of surplus property.

2. Private schools:

(a) In April 1959, S.B. 31 was enacted providing that any private school established in existing buildings may be exempt from local zoning requirements for a 2-year period, provided it has permit from State board of education and fire marshal. Cf. G 1b

3. Compulsory attendance:

a. In January 1959, the Virginia Legislature repealed the compulsory attendance law, Va. Code Ann. 22-251 et seq. Later, in April, it enacted compulsory attendance (H.B. 68) provisions, virtually the same as those repealed, which are, however, to be effective only when adopted by

a given locality. The new act further provides that upon recommendation of school authorities and juvenile judge any child whose parents consent may be excused from attendance.

G. School personnel:

1. Protection

(a) Va. Code Ann. 21-111.10 and 111.38:3 (1956) amends Virginia code with respect to teacher retirement system to authorize teachers participating in certain private educational corporations to be included under the retirement system.

(b) S.B. 21, enacted April 1959, allows teachers to repay State loans for education by teaching in private schools (as well as in public, as formerly provided).

H. Miscellaneous:

3. Chapter 60 of the acts of the 1956 extra session of the Virginia General Assembly, Va. Code Ann. 22-72-72.1, amends Virginia code to authorize but not require county school boards to provide for transportation of pupils.

4. S.B. 19 enacted in April 1959, authorizes localities to provide pupils transportation to private schools.

III. ORGANIZATIONS

A. Antibarratry:

1. Chapter 35 of the 1956 extra session 18-349.25 et seq. provides punishment for the crime of barratry. "Barrator" is defined as a person or corporation. Requires litigants to have direct interest in suit.⁷

2. Chapter 36 of the 1956 extra session Va. Code Ann. 18-349.31 through .37 makes it unlawful for a person not having direct interest in litigation to support with money or other assistance any proceeding before a court or administrative agency against the Commonwealth of Virginia or any of its agencies. Violation is made punishable by fine and imprisonment.

3. Chapter 33 of the 1956 extra session amends the Virginia code with respect to the licensing and suspension of attorneys. The act defines "runner" or "capper" as one who acts as an agent for an attorney for the purpose of soliciting business and regulates such persons. (Amends and reenacts 54-74, -78, -79.)

4. House Joint Resolution 50 (1958) authorizes Virginia State bar to investigate attorneys accused of unauthorized practice of law.

B. Investigative committees:

1. Chapter 34 of the 1956 extra session acts of Virginia authorizes the appointment of a joint committee of the General Assembly to oversee the enforcement of acts relating to champerty, maintenance, barratry, running and capping, and other offenses concerning litigation and the general administration of justice in the Commonwealth, continued until 1958 by chapter 373 (acts, 1958) code 30-42 to -51.

C. Registration and licensing:

1. Chapter 32 of the 1956 extra session Va. Code Ann. 18-349.17 through .24 announces the public policy of the State to promote interracial harmony and requires the registration and furnishing of certain information by organizations which promote or oppose legislation of a racial nature or which advocate racial integration or segregation, or whose activities tend to cause racial conflict.

2. Chapter 31 of the 1956 extra session requires the registration and furnishing of certain information by persons, including organizations and corporations, who engage in the solicitation of funds and supporting litigation. (Va. Code Ann. 18-349.9 through .16.)

V. PUBLIC ACCOMMODATIONS AND RECREATION

A. House Joint Resolution No. 97 of the Virginia House of Delegates, adopted by both houses (1956), provides for racial segregation of athletic events in which any school in Virginia shall participate.

Mr. RODINO. Are there any other questions, Mr. Meader?

Mr. MEADER. I would only like to say that I commend the Attorney General for the statement he has made to the committee this morning and the manner in which he has replied to the questions put.

⁷ Chs. 31, 32, and 35 were held unconstitutional by a Federal district court. The appeal from that decision is now pending in the Supreme Court. *Harrison v. NAACP*.

What has pleased me most is his statement that the policy of the administration and the Department of Justice is not to seek to extend Federal power unnecessarily.

Mr. RODINO. Mr. Donohue?

Mr. DONOHUE. No questions.

Mr. RODINO. Mr. Toll?

Mr. TOLL. No questions.

Mr. RODINO. Mr. Foley?

Mr. FOLEY. There are a few technical questions I would like to bring up about the bills.

On page 2, the entire provision there does not, in your opinion, raise any problem of infringement on the freedom of speech, does it?

Attorney General ROGERS. No, Mr. Foley; not at all.

We were careful to draft this statute in the same language as 1503, so we could not be accused of extending that idea or infringing on the right of the freedom of speech.

Mr. FOLEY. Which brings me to the next question.

In view of the pattern of following the language that we in section 1503 of title 18 and in view of almost the identical substantive crime involved here, why is it that the punishment in your proposal differs from the punishment in 1503, which is \$5,000 or 5 years or both? Is there any reason for that?

Attorney General ROGERS. Well, we wanted to, in all these proposals, draft them in such a way that it did not seem to people that the Federal Government was trying to do too much.

Now if you look at 1503 you will see that it applies to kidnaping and several other very serious crimes of that nature, and we think that the punishment here would be adequate.

If the Congress should desire to increase it we would have no objection. We did everything we could to do what we thought would be helpful to us in law enforcement without giving the impression we were going too far.

Mr. FOLEY. As an ex-prosecutor you are worried about the question of maybe the punishment might be too extreme for a jury to convict?

Attorney General ROGERS. It might be to make it more difficult to prosecute.

Mr. FOLEY. The final question is this: Under your exception on line 21 you say, "or is subject to disciplinary action by an officer of such school."

What would be the effect of that exception on such a factual situation as this: A school board seeking integration runs up against a militant principal who is a segregationist, and who actually fights the court order.

Would not your exception here let him out under prosecution with respect to 1509?

Attorney General ROGERS. Yes, we thought that through pretty carefully, too.

It is true that that would be, but he, the principal, would not proceed generally with the force or threats of force.

He would do it some other way, and if that happened, then going back and having him named in the injunction would not be too slow a process.

Mr. FOLEY. You have your civil control of him there?

Attorney General ROGERS. That is right.

Mr. FOLEY. Through contempt proceedings.

Attorney General ROGERS. That is right.

But we did not want to be charged with in this bill, with interfering in the operation of the school in any sense of the word because that is not what is designed to do.

Mr. FOLEY. Now, going to title II there is one question there, and it is this:

I notice on line 24 with regard to the venue provision, as you described 1074 in almost the same language as used in the felony section, 1073 of title 18.

Attorney General ROGERS. Yes.

Mr. FOLEY. But on lines 24 and 25 with regard to venue you used these new words, "or in the Federal judicial district in which the person is apprehended."

Why is that added when it is not in the fugitive felon section?

Attorney General ROGERS. Well, we thought that we might want to try him in this case for being a fugitive in that district. It is just a matter of legislative policy.

But I think it would be helpful—you see, we could not try him for the substantive crime. We could only try him for being a fugitive.

Mr. FOLEY. Now, turning to title III with regard to the election records, insofar as the authority of the Federal Government is concerned would you agree with the statement that under the decision in *U.S. v. Classic*, and in *Terry v. Adams* that the U.S. jurisdiction, as interpreted by the Supreme Court, can go to the selection of candidates in a primary election for Federal officers?

Attorney General ROGERS. Do you want to ask me that again? I am not sure I got the import of it.

Mr. FOLEY. Under the holding in the *Classic* case and in the *Terry v. Adams* case, did not the courts say that the Federal Government's control extended so far as to include the selection of a candidate for a primary election for a Federal office?

Attorney General ROGERS. In other words, does it apply to primaries when Federal offices are involved?

Mr. FOLEY. In the case of the selection of a candidate, such as was the issue in *Terry v. Adams*, where the primary election was tantamount to an election?

Attorney General ROGERS. I think the answer to that question is "Yes."

Mr. FOLEY. Furthermore, insofar as the election of a Senator or a Member of the House of Representatives, does not article I, section 4, specifically authorize Congress to alter State laws on elections?

Attorney General ROGERS. Sure.

Mr. FOLEY. Now why is it that you omitted in your description of these various Federal elections, the election for a Delegate or Resident Commissioner?

Attorney General ROGERS. You mean from the language?

Mr. FOLEY. You referred to a Member of the Senate, a Member of the House of Representatives, but you did not use the words, "or Delegate or Resident Commissioner."

We may get out of the Delegate situation within the next 24 hours; Resident Commissioners are still in existence, and I point out, Mr. Rogers, that in title XVIII with regard to all our criminal provisions dealing with Federal elections we specify—

Attorney General ROGERS. Well, Mr. Foley, I thought I knew everything in this bill, but I think you found one I did not know. I think we ought to include it.

Mr. FOLEY. I would suggest that you consider that be included not only in section 307 and also I would like to call to your attention in that regard that on line 15 you limit it to except a State, and if you make that change you would have to amend that particular section.

Attorney General ROGERS. That sounds reasonable.

Mr. FOLEY. That is all, Mr. Chairman.

Mr. McCULLOUGH. Mr. Chairman, I would like to ask the Attorney General if Dr. Hannah, Secretary Fleming, and Secretary Mitchell will give testimony on the three titles that we have not discussed at any length this morning?

Attorney General ROGERS. Well, I think Dr. Hannah could probably—well, I do not know what the extent of his testimony is, but I know Secretary Mitchell and Secretary Flemming will; and Dr. Hannah is here and is ready to be questioned, I think, now.

Mr. McCULLOUGH. That is all.

Mr. RODINO. Any further questions?

If not, thank you very much, Attorney General Rogers. We appreciate your coming here and the constructive help you have given us. I do hope we can get this thing done in the greatest haste.

Attorney General ROGERS. Thank you very much, Mr. Chairman. It is always a pleasure to come before this committee.

Mr. RODINO. We will now hear from Dr. John A. Hannah, Chairman of the U.S. Civil Rights Commission.

Dr. Hannah, I understand you have a time at which you have to get away. What time is that?

Dr. HANNAH. My plane leaves the airport at 1:30, which means I should leave here by 12:45, which means I have about 45 or 50 minutes.

Mr. RODINO. Will the gentlemen bear this in mind.

Doctor, do you have a prepared statement?

Dr. HANNAH. Yes, Mr. Chairman, a very brief one.

Mr. RODINO. Will you commence, please?

STATEMENT OF DR. JOHN A. HANNAH, CHAIRMAN, COMMISSION ON CIVIL RIGHTS

Dr. HANNAH. Mr. Chairman and members of the committee, I would first like to introduce Mr. Gordon Tiffany, who sits on my left, who is the Staff Director of our Commission on Civil Rights; and on my right Mr. David Dennison, who is the legislative analyst for our Commission; and we have two other members of the Commission staff in the audience in the back of the room: Dean George M. Johnson, who is Director of the Commission's Offices on Laws, Plans, and Research—Dean, would you stand so they can see who you are—and Mrs. Carol Arth, the secretary of the Commission.

My name is John A. Hannah. I am serving as Chairman of the Commission on Civil Rights. I am also president of Michigan State University at East Lansing, Mich.

Under the Civil Rights Act of 1957 (71 Stat. 634) the President of the United States was required to appoint a Commission on Civil

Rights to be composed of six members, appointed by and with the advice and consent of the Senate. The act further provided that not more than three of the members shall at any one time be of the same political party.

At the present time, there are but five members of the Commission. One vacancy exists because of the recent death of the Honorable J. Ernest Wilkins, who also served as Assistant Secretary of Labor.

Serving on the Commission, in addition to myself, are:

The Honorable Robert G. Storey, of Dallas, Tex., dean of Southern Methodist University Law School, who is Vice Chairman of the Commission.

The Reverend Theodore M. Hesburgh, CSC, President of the University of Notre Dame.

The Honorable John S. Battle, former Governor of Virginia.

The Honorable Doyle E. Carlton, former Governor of Florida.

Yesterday the President sent to the Senate the name of Dean George M. Johnson, formerly dean of the Law School of Howard University, as a replacement for the late Mr. Wilkins.

Serving as Staff Director of the Commission on Civil Rights is Gordon M. Tiffany, former attorney general of New Hampshire. Mr. Tiffany has done an outstanding job of organizing the work of the Commission in the short life that it has had since the confirmation of the appointment of the Commissioners and the Staff Director by the Senate.

With your permission, Mr. Chairman, I would like to insert into the record at this point, the detailed biographies of each of the members of the Commission and of the Staff Director.

(The documents referred to follow:)

Dr. HANNAH. I have asked Mr. Tiffany to give a more detailed account of the operation of the Commission, but before his presentation, may I point out that we are extremely proud of the work which the members of the staff of the Commission have accomplished in the last 10 months since May of 1958, when the Staff Director's appointment was confirmed.

We do not have all of the answers to all of the problems in the field of equal protection of the laws. We believe that we have made some progress in the understanding of these problems and we believe that our report, which will be submitted in September of this year, although not covering the entire field, will be a significant contribution to a better understanding of the civil rights problems which this Nation confronts.

I do not appear here as an advocate of any of the civil rights measures which are presently before you. The Commission has not, and cannot, come to conclusions which would have any value to you until such time as our factual information is complete.

We can, however, report to you at this time what our Commission has done, is doing, and will try to do and which may help you to determine whether or not the action of the 85th Congress, in creating the Commission, was sound and whether or not the life of the Commission and its work should be continued.

At a later time, if your committee has questions it would like to put to me as a private citizen and not speaking for the Commission on Civil Rights, I will be happy to try to answer such questions.

At this point, Mr. Chairman, I would like to turn over the presentation to Mr. Gordon Tiffany, who will describe to you in greater detail than I the work of the Commission and what we are proposing to do.

May I ask Mr. Tiffany to take over and proceed? It will take about 7 or 8 minutes.

Mr. RODINO. All right, Mr. Tiffany.

STATEMENT OF GORDON M. TIFFANY, STAFF DIRECTOR, COMMISSION ON CIVIL RIGHTS

Mr. TIFFANY. Before I commence my brief statement, Mr. Chairman, I want to express in the record my appreciation for the very fine Commission which it has been my privilege to work with, and the leadership offered by Dr. Hannah, as its Chairman.

First of all, Mr. Chairman, I would like to take this opportunity to thank you and the members of the committee for the privilege of appearing before you in connection with the numerous bills to extend the life of the Commission on Civil Rights.

While taking no position on these bills, the Commission has felt that its experience in the study and investigation of the important field of civil rights might be helpful to you in arriving at your conclusion. We take pride in the work which we have been doing and we hope that when our report is submitted next September as Congress has required, a real contribution will have been made toward the solution of this important problem.

As I have indicated, we do not appear before you to make a case for or against the extension of the life of the Commission on Civil Rights. We are prepared to tell you what we have done and what we can do and are doing under the present law. We must then defer to your good judgment as to whether or not justification exists for any extension of its life.

We feel that self-serving statements which might invite invidious comment would not be helpful in reaching the proper result.

Under the authority granted by Public Law 85-315, enacted on September 9, 1957, the Commission's duties are essentially fourfold:

(1) To investigate allegations (in writing, under oath or affirmation) that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, or national origin.

(2) To study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution.

(3) To appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

(4) To submit interim reports to the President and to the Congress at such times as either the Commission or the President shall deem desirable, and to submit to the President and to the Congress a final and comprehensive report of its activities, findings, and recommendations, not later than 2 years from the date of the enactment of the act; to wit September 9, 1959.

I should point out here that this is a Commission *on* Civil Rights, a Commission empowered only to investigate, to study, to collect infor-

mation, and to find facts and make recommendations. It is not a Commission *for* the enforcement of civil rights. It has no connection with the Department of Justice and no enforcement powers other than to issue subpoenas and to refer matters of contumacy under the act to the Attorney General.

Although the act was passed in September of 1957, it was not until March 4, 1958, that the appointment of the members of the Commission was confirmed by the Senate and May 14, 1958, that the staff director's appointment was confirmed.

Being a new Commission, the usual difficulties were encountered upon organization. Notwithstanding such difficulties, however, within 30 days of the confirmation of my appointment, the Commission and the staff had managed to develop programs of research, study, and investigation in three major fields involving claimed denial of equal protection; namely, voting, education, and housing.

Establishment of State advisory committees had begun—with the rosters of several of them already filled. This involved prodigious effort and work on the part of the Commission and the staff.

This work has continued since then at the same pace. In addition, the Commission itself, through public hearings authorized by law, has obtained first-hand information relative to civil rights problems.

In December and January hearings were held in Montgomery, Ala., concerning alleged denial of equal protection of the laws in voting cases. The information obtained will certainly contribute to the final report.

Later, a hearing about housing was held in New York City. Recently a conference on the problems of equal protection in education has been held in Nashville, Tenn. Additional hearings and conferences have been scheduled this spring for Chicago, Atlanta, and Los Angeles.

It would be incorrect, however, to give the impression that these public hearings and conferences represent more than a very small portion of the work that the Commission has done and will do. As a matter of fact, the great burden of work is being done quietly, without fanfare, and at a rate which is surprising, even to experienced research people.

State and Federal laws relating to equal protection of the laws have been compiled for appraisal and analysis. Voting complaints have been and are being investigated. Studies in depth to determine the effect of numerous factors in the field of racial relations have been initiated. Work has begun on the preparation of the final report, the compilation of factual and legal material from which the Commissioners may form conclusions.

This progress on the part of the Commission and its staff makes it possible for me to report to you that the Commission will file a report on the subjects of voting, education, and housing not later than September 9, 1959.

Many other areas of alleged denial of equal protection of the laws may exist throughout this great land of ours, such as in the field of administration of justice, Government facilities, public accommodations and amusement, transportation, and employment.

Some of our studies, particularly of the laws of the Federal Government and the States, relate to such other fields. Some of the activities of State advisory committees will relate to other fields. Such other

fields will not, however, be studied or investigated independently and certainly not as comprehensively as the principal ones of voting, education, and housing. An extension of the life of the Commission would permit further work along these lines.

If the Commission's life were continued, some 400 people on State advisory committees throughout the country would continue to devote time and energy to civil rights problems.

These committees have been established with the hope of obtaining the views of responsible citizens within each State. Their talent and advice can be of great value in meeting the issues as they arise on the local level.

An extension of time would also mean that the Commission could continue to receive and process complaints that certain citizens are being deprived of their right to vote.

Mr. Chairman, before I proceed, I would like to point out that the services of those 400 members of our State advisory committees are not paid services, but services that are volunteered.

Mr. RODINO. That is commendable.

Mr. TIFFANY. Since last August, we have received over 221 voting complaints and are continuing to receive them at an ever increasing rate. Although we have no authority to provide affirmative relief, our investigations often lead to correction of misunderstandings, development of new facts helpful to a solution of the problems presented or, in some cases, bring out total lack of reasonable grounds for the complaint.

Finally, an extension of time would mean that the Commission could continue its studies in the three fields already selected, voting, education and housing. While the Commission has worked diligently in these three areas and while the September 9, 1959, report should be an important source of reliable information, the limited time available and the scope of the problems involved make it impossible for that report on these problems to be in any real sense an all-inclusive one.

If this committee should conclude that the best interests of this country are served by an extension of the life of the Commission, may we then suggest there practical administrative problems which might be solved by any new legislation:

1. The 1957 act makes no provision for any term of office for the Commissioners. We recommend that the present appointments be automatically extended without the necessity of reappointment and reconfirmation.

2. Some question has been raised as to the power of Commissioners to administer oaths. We recommend such specific authority be given them, and also the right by Commission action to delegate such authority to members of its staff.

3. As a temporary Government agency, the Commission has experienced difficulty in obtaining the services of an adequate number of fully qualified personnel for part-time, short-tenure employment. This is quite understandable in view of everyone's natural desire to seek and obtain permanent employment. We feel that this difficulty could be alleviated, to some extent at least, by permitting the Commission to employ persons without reference to civil service and classification laws as was the case with the Wright Commission and as is contemplated with the Commission on Equal Job Opportunity Under Government Contracts in H.R. 4457 and H.R. 4348.

In conclusion, Mr. Chairman, may I state again that the Commission and the members of the staff have attempted to the best of their ability, to fulfill the task given to it by the 85th Congress.

Whether, in the light of our accomplishments thus far, within the available time, the Commission's life should be extended is a matter of discretion for your committee and the Congress of the United States.

I want to take this opportunity to thank you for permitting me to appear before you at this time. If there are any questions, I will be more than pleased to answer them to the best of my ability.

Mr. RODINO. Thank you very much, Mr. Tiffany.

We appreciate the presentation, and we certainly feel that the Commission is attempting to do a job of great scope, and we know that it is going in the right direction.

I would like to ask this question, Dr. Hannah:

In view of the fact that the report which must be presented will have to be presented by September 9, 1959, on the basis of areas of voting, education, and housing, do you believe that that time will have been sufficient to make a comprehensive report and the type of report that was contemplated?

Dr. HANNAH. Well, I suppose if we had more time it could be more comprehensive. But since we knew from the time that we began our work that this deadline was in the act itself, and that we were to complete a report by September 9, we have planned our work and our hearings and our programing upon the assumption that the Commission was going to go out of business, out of existence in September, and we will have a pretty good report, a much better report than we thought possible when we started to work effectively last May.

Mr. RODINO. Will that report deal more specifically and confine itself to the question of voting, education, and housing, to those areas in particular?

Dr. HANNAH. Yes. We recognized that we could not cover the whole waterfront. There were a lot of areas we could go into, and we started with a Commission with widely differing points of view on this matter of civil rights, and it took some time before the Commission reached a point of unanimity where it could arrive at a position in three areas:

One, voting outlined in the act itself, and then in the area of housing and education, and so that is all we are attempting to cover, except that in the report of the Federal and State laws there will be reference to other phases of the civil rights problem, but only by implication.

Mr. MILLER. Dr. Hannah, may I ask how you or your staff director omitted the field of employment?

Dr. HANNAH. Because there were other agencies of the Government that were dealing with employment.

Mr. MILLER. You are talking particularly of the agency in regard to Government contracts?

Dr. HANNAH. That is right.

Mr. MILLER. Of course, Government contracts go into a very, very small field within the whole area of employment or nonemployment based on discrimination as to color, and I have even read articles where there are certain labor unions in the country which still have rules and regulations which discriminate; and I wondered if that

would not be a field that you might well get into should the life of the Commission be extended?

Dr. HANNAH. I think Mr. Tiffany's report indicated it is one of the areas that deserves some investigation. But as the Congress will recognize we really did not get started to work until May, and we had only 5 months—

Mr. MILLER. I can understand that.

Dr. HANNAH (continuing). And there is a limit to what could be covered.

Mr. RODINO. It is, therefore, contemplated that should the life of the Commission be extended that these other areas, where it may be that there is a denial of equal protection of the law, such as those pointed out by Mr. Tiffany in the field of administration of justice, Government facilities, and employment, and so forth, that those would be the areas that then would be under study?

Dr. HANNAH. I think that is a fair assumption.

Of course, this is a matter that has not been formally before the Commission, but I am sure if the Commission is extended, whoever the Commission members may be, would certainly expand their objectives to cover the whole field, all of its various aspects.

Mr. RODINO. Dr. Hannah, would you be able to tell us whether or not there are any specific problems that the Commission has been confronted with in trying to collect this information in the course of its investigation?

Dr. HANNAH. Well, the answer is "Yes." It is a very generous question you ask, have there been specific problems. There have been a great many of them; yes, sir.

Mr. RODINO. Like what?

Dr. HANNAH. Do you want to expand on this one, Mr. Tiffany?

Mr. TIFFANY. I think the leading example, Mr. Chairman, would be our experience in Alabama.

In Montgomery, for example, when we went there for our hearings in December, we subpoenaed both testimony and records, and in that instance one of the Superior Court judges of the State, who had entertained a complaint on a voting fraud, had previously subpoenaed the same records which it was our desire to examine, and in that instance, Mr. Chairman, this person was reluctant to appear to testify and offer these records for our study.

At that point our chairman referred the matter to the Attorney General and, as he has indicated in his earlier testimony here this morning, the Attorney General presented his petition to the court, and as a result the Circuit Judge in Alabama, in the Alabama county, was directed to furnish the information requested by the Commission.

In answer to your question, yes, we have had difficulty, and there is one instance at least. But we obtained the records which, I think, is the important thing.

We got the records and we got the information we needed.

Dr. HANNAH. We had the opportunity to see the records.

Mr. TIFFANY. Yes, sir.

Mr. RODINO. Mr. Tiffany, you allude in your statement to the fact that since last August you have received over 221 voting complaints and that you are continuing to receive them at an ever-increasing rate.

Would you amplify on that ever-increasing rate; what that would be approximately?

Mr. TIFFANY. We keep a daily docket in our office, and these communications—I won't say they are all formal complaints in the sense that they comply with the technicalities of the statute—but these communications as they are received are entered in the docket, and as of that count, which, I believe, was February 16, for last month, there were over 220 communications in the nature of a complaint about the denial of the right to vote.

Now, these complaints have originated not merely in the South but some in other parts of the country as well.

We have initiated investigations on the basis of complaints specifically in, you might be interested, Florida, in Mississippi, Louisiana, and Alabama. Those have been full field investigations.

Mr. HOLTZMAN. Mr. Chairman, if I may ask, at that point, do you have or can you tell us how many complaints you have received in other fields, in education, in housing?

Mr. TIFFANY. Yes, sir.

My attention has been called to a note which has recently been added to the docket that 65 additional complaints over the 221, making a total of 286, were received as of March 10, 1959.

Now, with reference to the overall total of complaints, as of February 16—I cannot give you specifically as to education; I have it broken down by States and areas and in other ways but not specifically as to education. There have been some in almost every State in the Union.

Mr. HOLTZMAN. Would you say they equaled the complaints or surpassed the complaints with respect to voting?

Mr. TIFFANY. No, sir; I would say they were less.

Mr. HOLTZMAN. You get most complaints relative to voting rights?

Mr. TIFFANY. Yes, sir. I think there is a good reason for that; namely, that our statute particularly refers to voting.

Mr. HOLTZMAN. No further questions.

Mr. RODINO. Mr. Rogers?

Mr. ROGERS. Dr. Hannah, do I understand you to state on page 2 that you are not advocating any of the civil rights measures which are before us, but I take from that paragraph that you make it clear you would have no objection if the Civil Rights Commission were extended so that you could make a more comprehensive study of other matters, other than voting, education and housing; is that what I am to take from what you said?

Dr. HANNAH. Mr. Rogers, what I was trying to say, to put it another way, is that the Civil Rights Commission as a commission, of course, has an awareness of the various measures that have been introduced in the Congress; it has not formally taken any position because we feel that is not a part of our job. That is not what we are supposed to do.

Mr. ROGERS. Yes.

Dr. HANNAH. We hesitate even to suggest whether or not the Commission should be continued, because we were charged with doing a specific job within a time limit, and that we are going to do.

As an individual I have the notion that it would be to the best interests of the country, and the best interests of the country would be

served by having a Civil Rights Commission continued, but that is a personal view.

Mr. ROGERS. Do you feel that by the 9th of September you will be able to give us a report that may solve the educational problem?

Dr. HANNAH. No, sir. That problem is not easily solved. I think we are going to have in our report some recommendations, however, that will be of assistance to the country, and, particularly, to the sections of the country that have formerly had segregated schools and now under the Supreme Court decision are forced to move to desegregation.

Mr. ROGERS. Yes.

If I may direct a question to Mr. Tiffany, on page 6 of your statement you advocate and recommend that the present appointment be—that the Commission be extended, and that the present appointments be automatically extended without the necessity of reappointment and reconfirmation.

If we should decide to make this a permanent Commission rather than one for 2 years, as the original act was, would you have any objection to providing in there for staggering appointments; that is, one Commissioner to serve for 2 years and one 4 years, and then when the 2 years are up, if he is reappointed, the reappointment come from the President?

Mr. TIFFANY. In answer to that question: First, I would just like to say that my recommendation here is if the Commission is extended, and that is the decision of this committee, then these might well be considered.

I would say more specifically to your point that of course if it were extended indefinitely, I would certainly expect that there should be some term of years for the various members of the Commission.

Mr. ROGERS. The thought that you have here is that this be at least—if we have a temporary extension and nothing further—that the present Commissioners be continued in office until the end of the Commission; that is the intent?

Mr. TIFFANY. Since the Chairman is here, it might be well if he will concern himself with that.

Dr. HANNAH. Mr. Rogers, I would answer it this way: Certainly I do not want anything that you read in here to indicate a desire on the part of the present Commission to serve, because it may be that any or all of them will ask to be relieved. But I think what the staff had in mind and a notion with which I concur because of the long delay involved in getting confirmation of the original Commission, if the Commission is to be extended for a stated period you can save a hiatus that was likely to occur again if the new Commissioners have to be approved by the Judiciary Committee of the Senate, and if they take the same attitude which they took with reference to the confirmation of the present members, which was a long drawn out delaying process.

Mr. ROGERS. I thought probably it might be that the present Commissioners get along so fine that they are studying the problems that they have; if they had a little more time they could come up with some proper answers. I thought maybe that was the idea.

Dr. HANNAH. I can say this is not a post that any member of the Commission sought.

Mr. ROGERS. I was going to say that I know the work that the Chairman of the Commission has done, including being a member of the Board of Visitors at the Air Force Academy with me. I know he is busy, and he is only taking the position here as a matter of patriotic duty.

Mr. RODINO. There is a quorum call. Off the record.

(Discussion off the record.)

Mr. RODINO. Dr. Hannah, I believe that unless Mr. McCulloch has any questions—do you have any questions, Mr. McCulloch?

Mr. McCULLOCH. No questions.

Mr. RODINO. Mr. Donohue?

Mr. DONOHUE. No questions.

Mr. RODINO. Mr. Toll?

Mr. TOLL. No questions.

Mr. RODINO. Dr. Hannah, we want to thank you and Mr. Tiffany for having come here and we appreciate your efforts.

Dr. HANNAH. Thank you very much, Mr. Chairman.

I should only like to say on behalf of the Commission that they have accepted an onerous task and are doing the best they can with it.

Mr. RODINO. I am sure if they were required to serve any longer they would be patriotic enough to accept that service.

Mr. McCULLOCH. I would like to say that you have made a very excellent Chairman.

Dr. HANNAH. Thank you, sir.

Mr. RODINO. Mr. Mills.

Our next witness is Mr. Edward K. Mills, Jr., Deputy Administrator of General Services, I believe, accompanied by Mr. Macomber, the General Counsel; is that correct?

Mr. MILLS. That is correct.

Mr. RODINO. Do you have a prepared statement, Mr. Mills?

Mr. MILLS. Yes.

Mr. RODINO. Mr. Mills, you may proceed.

**STATEMENT OF EDWARD K. MILLS, JR., DEPUTY ADMINISTRATOR,
GENERAL SERVICES ADMINISTRATION; ACCOMPANIED BY J. H.
MACOMBER, JR., GENERAL COUNSEL, AND LEONARD T. DeLISIO,
DIRECTOR, COMPLIANCE DIVISION**

Mr. MILLS. Thank you.

Mr. Chairman, Mr. DeLisio, our Compliance Director, is here on my left.

Mr. RODINO. Would you identify him, please?

Mr. MILLS. Leonard T. DeLisio, Compliance Director of GSA, is on my left.

Mr. RODINO. Mr. Mills, will you kindly speak up?

Mr. MILLS. Mr. Chairman and members of the committee, in representing the General Services Administration at today's hearing on certain bills pertaining to civil rights, I shall confine my remarks to title V of H.R. 4457, which is identical with H.R. 4169 and H.R. 4348.

Title V of H.R. 4457 would establish a statutory Commission on Equal Job Opportunity Under Government Contracts in accordance with the President's message of February 5, 1959, to the Congress on Civil Rights Legislation.

As the largest Federal civilian procurement agency, the General Services Administration is in complete accord with the well-established policy of the U.S. Government to promote equal employment opportunity for all qualified persons employed or seeking employment on Government contracts. GSA, therefore, favors the enactment of title V of H.R. 4457.

As you know, nondiscrimination in employment under Government contracts is now required by Executive Order 10557, dated September 8, 1954. Through education, mediation, and persuasion, the Committee on Government Contracts, which was established by Executive Order 10479, dated August 13, 1953, has sought to give effect not only to this requirement of nondiscrimination but also to implementing the policy of equal job opportunities generally.

In implementation of Executive Order 10557, the clause covering nondiscrimination in employment was prescribed for Government-wide use in standard contract forms on and after December 2, 1954, by GSA General Regulation No. 16. This regulation, issued by the General Services Administration to the heads of Federal agencies under its statutory authority to prescribe standard forms for the Government, provided for modification of certain existing standard contract forms to substitute a revised contract clause dealing with nondiscrimination in employment. The GSA regulation made the nondiscrimination-in-employment clause applicable to standard contract forms covering services and supplies, construction contracts, and leases.

In addition, for internal purposes, the General Services Administration provided for the use of a revised nondiscrimination-in-employment clause in GSA contracts and purchase orders with minor exceptions. Furthermore, it is now GSA policy to regard compliance with the nondiscrimination clause as a factor in determining responsibility of contractors.

Although the program to promote equal job opportunities under Government contracts has been widely accepted by Government agencies, employers, and unions, and significant progress has been made, we believe that the program would be materially advanced by the enactment of title V of H.R. 4457. Such legislative endorsement would add stature and prestige to the Committee and its program as well as more fully implement the policy of nondiscrimination in employment under Government contracts.

Mr. Chairman, that completes our prepared statement. We will be glad to answer any questions that you or the committee members would like to ask.

Mr. RODINO. Mr. Holtzman?

Mr. HOLTZMAN. No questions.

Mr. RODINO. Mr. McCulloch?

Mr. McCULLOCH. Yes, Mr. Chairman.

Mr. Mills, might I correctly conclude that you are of the opinion that the President's Committee has done an excellent job in this field?

Mr. MILLS. We think that they have done an outstanding job, sir.

Mr. McCULLOCH. And it is also your opinion that you believe that a permanent Committee would do as good a job, if not a better job, than the present Committee?

Mr. MILLS. That is correct. We feel that congressional endorsement of the Committee would give it further stature and prestige.

Mr. McCULLOCH. That is all.

Mr. RODINO. Counsel?

Mr. FOLEY. Mr. Mills, could you give us an idea of what percentage of Government contracts your agency lets annually—not military contracts, of course?

Mr. MILLS. We are the major procurement agency in the civilian side of Government. The burden of our work in this particular contact area in connection with the nondiscrimination clause involves in the neighborhood of 40 complaint type of cases per year, and 55 survey type of cases. In terms of dollars that translates itself out to approximately \$50,000 per year as far as GSA is concerned, and approximately \$43,000 so far as financing the work of the President's Committee is concerned.

So roughly a figure of about \$93,000 is devoted by our agency to implementation of this Executive order in connection with the inclusion of the nondiscrimination clause.

Mr. FOLEY. Would you have a round figure on the total volume of the contracts that you let?

Mr. MILLS. It is very hard to give you a definite total figure.

In connection with our Defense Material Service procurement there has been a substantial falloff in the large volume of business that we did with the attainment of stockpile objectives.

As you know, in that area we have a stockpile of about \$8 billion. But current procurement has substantially diminished.

Also the construction program at the present time is not moving ahead rapidly, so that the bulk of our contract obligations now fall into the Federal supply field where we procure common-use items for the civilian executive agencies. That procurement totals approximately \$767 million per year.

Mr. FOLEY. I take it then from your statement that your particular agency conducts the field operations for the Committee itself?

Mr. MILLS. We do a certain amount of investigative work for the Committee at its request.

They will refer complaints to us where there has been some alleged violation on the part of some contractor or supplier, and then Mr. De Lisio's Division, our Compliance Division, will look into the matter and report back to the Committee so that they will be in position to take whatever appropriate action they feel is desirable.

Mr. FOLEY. Is the same procedure applicable to the survey question?

Mr. MILLS. Yes; that is correct.

Mr. FOLEY. Do you ever initiate either a complaint or a survey procedure on your own?

Mr. MILLS. Yes, sir; we do.

Mr. FOLEY. Is that reported back to the Committee?

Mr. MILLS. Yes. I would like Mr. DeLisio to go into this matter further in connection with the investigation by GSA of complaints addressed to us.

Mr. RODINO. Go ahead.

Mr. DeLisio. All right, sir.

With respect to your question, as to the referral back to the Committee, we would do that so that for future references they would have in their files the results of our inquiry and in the future if they

have a complaint or they feel it should be assigned as a survey they will have the benefit of our previous inquiry.

As for complaints, the Committee refers the complaint to the agency who has a contractual relation with that firm. That, therefore, eliminates duplication because the Department of Defense as well as GSA might have a contract with the same firm and the Committee refers it to the agency having the greatest contractual responsibility.

Mr. FOLEY. As to compliance, which agency has the responsibility or is it the Committee that has the responsibility for compliance?

Mr. DELISIO. No, the agency itself.

Mr. FOLEY. The contracting agency itself?

Mr. DELISIO. Yes.

Mr. HOLTZMAN. Will counsel yield?

Do we have any notion of how many such complaints you have received since the Executive order?

Mr. DELISIO. As a cumulative total, no, sir.

Mr. HOLTZMAN. We have no notion at all?

Mr. DELISIO. I can get it for you; yes, sir.

Mr. HOLTZMAN. Would you, please?

Mr. DELISIO. I would be glad to.

(The information referred to is as follows:)

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., March 27, 1959.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: At the hearing on March 11, 1959, before Subcommittee No. 5, the House Committee on the Judiciary, on civil rights bills H.R. 4169, 4348, and 4457, this agency was asked to provide information concerning its experience in promoting and enforcing compliance with the nondiscrimination clause in Government contracts.

Since the beginning of fiscal year 1955, this agency has conducted 72 investigations which were predicated upon specific complaints that contractors had discriminated against employees or applicants because of their race or religion. In four of these investigations, involving alleged discrimination against Negroes, it was established by clear and convincing evidence that the allegations were well-founded and in each instance the contractor took satisfactory corrective action by hiring the disappointed applicant or by integrating Negroes into positions previously reserved for white personnel.

Although most of these investigations failed to disclose conclusive proof of discrimination, the contractors generally adopted recommendations to improve their implementation of this program by affording better job opportunities to qualified minority group members.

In addition to the investigations of complaints, this agency has conducted surveys and annual resurveys, with some exceptions, of 66 contractors whose plants are situated in metropolitan areas with minority group populations in excess of 50,000. It is the purpose of these surveys and resurveys to measure the progress of contractors in affording to minority group members increased opportunities for employment and promotion to the skilled, clerical, and supervisory job classifications.

In all surveys certain deficiencies were observed and these were corrected in most instances when called to the attention of management. The corrective actions included posting of nondiscrimination notices, issuance of nondiscriminatory policy statements, elimination of objectionable questions in preemployment applications, and agreements by contractors to broaden their recruitment bases by requesting referrals of applicants from minority group organizations.

One of our effective educational activities is in connection with the investigations described above. In interviews with the contractors, our compliance representatives stress the broad objectives of the program and the necessity for the Nation to develop the innate skills of minority group members.

Our contracting officers are instructed to furnish information and appropriate educational material to contractors and to take advantage of their relationship with contractors to encourage and stimulate an interest in the program. In addition, special instructions regarding the nondiscrimination requirements and pamphlets furnished by the President's Committee on Government Contracts are mailed to contractors receiving awards.

As you know, the executive agencies receive guidance and advice from the Committee in all phases of this program and our reports of investigation in both survey and complaint-type cases are referred to the Committee for review, comment, and recommendations. This agency also informs the Committee of the measures taken by contractors to correct deficiencies in their compliance with the nondiscrimination clause and of those instances in which our suggestions have been rejected by the contractors.

This agency has had no occasion to deny an award or to invoke debarment because of a violation of the nondiscrimination clause. As previously indicated, when violations of the clause have been established by clear and convincing evidence, the contractors have taken satisfactory corrective action. It is recognized, of course, that discrimination is prevalent. However, the difficulties in producing adequate proof of overt discrimination are apparent and, for that reason, it is necessary in most instances to rely on education and persuasion which have generally proved effective.

It is felt that the above summary concerning our experience with this program is in sufficient detail for your purpose. However, prompt attention will be afforded any further requests for information which you may consider pertinent.

Sincerely yours,

EDWARD H. MILLS, JR.
Acting Administrator.

Mr. HOLTZMAN. Can you tell us generally what success you have had? You talk about education, mediation, persuasion. What success have you had? Can you give us any specific examples?

Mr. DELISIO. Well, we have had a certain amount of success in the—I am trying to think of the case now—in a motor company out in, I do not know whether it is Los Angeles or one of the suburbs of Los Angeles, wherein the home office in its booklet published the nondiscrimination clause, and advised its local branches, whether it be assembly plants or office forces, to further the nondiscrimination program.

There we found that some of the personnel employees and the employing agencies had started a codification or coding of applicants for certain positions, unbeknownst to the top personnel people of the plant. When we discovered this situation and discussed it with the director of personnel, he issued instructions to the employment agencies that in the future such coding was to be abolished.

They requested on future job orders for the employment agency to send them qualified personnel regardless of race, color or creed.

Mr. HOLTZMAN. Suppose they had not? Is there a list that you put them on, is there some list such as a gray list or something of that kind?

Mr. DELISIO. Yes.

Mr. HOLTZMAN. Suppose they refuse to comply?

Mr. DELISIO. If there is a definite overt act of discrimination in employment they could be debarred.

Mr. HOLTZMAN. How many such instances do you have? Do you have such a list?

Mr. DELISIO. We, in GSA, no, sir; we have not.

Mr. HOLTZMAN. In other words, you do not have a single name on a prohibited list with respect to discrimination in the field of employment, is that right, on Government contracts?

Mr. DELISIO. Yes, sir.

Mr. HOLTZMAN. Would that be a fair statement?

Mr. DELISIO. Yes, sir.

Mr. HOLTZMAN. So that you would say in every instance where there is a Government contract there has been compliance, so far as you know?

Mr. DELISIO. Yes, sir. It is difficult to prove overt act—and areas of noncompliance corrected by education and mediation.

Mr. RODINO. Following up Mr. Holtzman's questions, then how can I reconcile this statement that you, through education, mediation, and persuasion, have been able to give effect and implement the Executive order? You mean that there has always been compliance, and if there has always been compliance then how does this come about that you make the statement that through education, mediation, and persuasion you then go in and do something? I do not follow you.

Mr. DELISIO. Well, sir, in this field, we find some areas of misunderstanding where, as I expressed in the Los Angeles area, some of the employing agencies had coded certain job orders, by education and persuasion and talking to the employing agencies as well as the firm's personnel director, the matter is clarified and corrected.

Mr. RODINO. When you say persuasion, what do you mean by persuasion? What type of persuasion?

Mr. DELISIO. Well, persuasion might not be the term in this instance. It would be more in the nature of conferences and bringing the facts to the attention of the personnel manager in the case.

Mr. HOLTZMAN. Mr. Chairman, may I ask on that point, suppose it is not an agency—this would be the minimum situation.

Suppose it is the employer? Do you have any specific instances where you persuaded or educated or cajoled an employer into behaving himself and complying with this Executive order?

Mr. DELISIO. Well, sir, we have done this: We have, as far as the employer is concerned, Mr. Holtzman, explained to him that if recruitment is in the technical field, that there are technical schools in that area where minority groups are attending, and inquire as to whether or not they have ever solicited any applicants from those schools. We try to point out to them that they have potential recruitment sources in the Urban League or other groups of that nature for applicants in the technical office field or the like.

Mr. HOLTZMAN. And you follow that up?

Mr. DELISIO. Yes, sir.

Mr. HOLTZMAN. To see if they have done that?

Mr. DELISIO. We follow it up to see if they have hired, anyone since the last survey, or whether or not they have made contact with the Urban League, or similar organizations.

Mr. HOLTZMAN. Do you feel, on the basis of what you have told us, along with Mr. Mills, that this gives you some basis for a permanent Commission, the thing you have described thus far?

Do you think you can do a more effective job that way?

Mr. MILLS. Yes, sir. We feel that the Committee could do a more effective job with congressional endorsement of the nondiscrimination policy and of what they have attempted to do so far in that regard.

I would like to add just one further thing in connection with our prepared statement.

We stated on page 1 that through education, mediation, and persuasion the Committee on Government Contracts has sought to give effect not only to the requirement of nondiscrimination but also to implementing the policy of equal job opportunities generally.

Now the Committee, using us in connection with their investigations and surveys, using us as their agent, employs the information which we give them to operate at a very high level in connection with bringing some of these companies into line.

General Ryan, for instance, who is the Executive Vice Chairman of the Committee, and a very competent and fine gentleman, will go to to the company's president, no matter how big the company may be, and confer with him at the very top level as to company policy on this question.

To me there is no more effective way of education and persuasion than starting at that level to get this story across and to clear up possible misunderstandings.

It has been particularly true in connection with better job opportunities. Negroes may be employed in some of the menial positions, janitorial and custodial jobs, but sometimes it is hard to crack the line in connection with getting them into more skilled, better paying, and white collar positions.

It is through contacts by people such as General Ryan and other members of the Committee that the presidents of the companies have pressure brought to bear directly on them.

Mr. HOLTZMAN. Mr. Mills, I want to say this, I am sure you are trying to do an effective job, but I cannot find it possible that there is no one instance in this country where in connection with Government contracts there is no discrimination against any minority, not just the Negro, and it is very difficult for me to buy that because I can give you a half dozen on some other occasion in my own area where this identical thing has been happening.

That is why I have a reservation about making permanent this kind of a committee and making it a Commission.

Mr. MILLS. If I understand you to say that there are not any violations of this policy, that is not the case. There are many violations of the policy.

But I think the Committee is following up very aggressively in trying to bring those companies into line with the policy, and our feeling is that with congressional endorsement the hands of the Committee would be greatly strengthened.

Now, they are simply operating under executive branch mandate, whereas if this policy were endorsed and backed by Congress it would strengthen the hand of this group considerably.

Mr. HOLTZMAN. Are you saying, sir, that the Congress will have more support than the executive branch on an Executive order? I am sure you do not mean that.

Mr. MILLS. I think a double endorsement not only by the executive but by the legislative branch would carry a great deal of weight.

Mr. ROBINO. But there would be no provision, there is nothing to enforce anything of this nature to bring about any correction by enforcement.

Mr. MILLS. Not in this proposed bill, Mr. Chairman; that is correct. There is no enforcement provision other than that which is set forth—

Mr. RODINO. And there is no provision existing now.

Mr. MILLS. No, no legal provision.

Mr. McCULLOCH. May I interrupt there, Mr. Chairman? Notwithstanding that lack of enforcement authority in the present Committee, I take it from what you have said heretofore that you have found a solution to every problem presented by a complaint; is that right?

Mr. MILLS. I would not say every problem, sir.

Mr. McCULLOCH. Most of them?

Mr. MILLS. Most of them.

I again repeat that I think this Committee is doing an amazingly fine job. They are all very dedicated, able people, and I feel they are entitled to congressional endorsement for what they have done.

Mr. RODINO. Do you have anything else, Mr. McCulloch?

Mr. McCULLOCH. This may be repetitious. You feel that we have everything to gain and nothing to lose by giving permanent status to this kind of an organization?

Mr. MILLS. That is a very good way to express it.

Mr. RODINO. Mr. Mills, may I inquire further, does your group keep a list of those cases which it has gone into where this may have been something that might have been tantamount to a violation, and you say then by persuasion, mediation, and education was corrected? Would you be able to give us such a list where those corrections were brought about so that there is no such discrimination existing now?

Mr. MILLS. Mr. DeLisio assures me that he can. He is the gentleman in charge of that division.

Mr. HOLTZMAN. Mr. Chairman, I think it would be very helpful to Mr. Mills in support of his approach if we had that, and we have the efforts made by Mr. Mills, and the results, I think it would be very helpful to you, sir.

Mr. MILLS. We will be very glad to supply that.

Mr. RODINO. You will be able to supply that?

Mr. MILLS. We would be very glad to.

(For the information referred to see prior GSA insert.)

Mr. McCULLOCH. Of course, Mr. Chairman, I am pleased to review, and I hope I review correctly, the testimony of our distinguished colleague, Mr. Dawson, when he so complimented this Committee in the great work it had done. He was of the opinion, as I recall his testimony, that the Committee had done such great work that it might even be unnecessary to give a group of men permanent life.

Mr. HOLTZMAN. I will join that. I will hope the day is near when we do not have to extend the life of the Civil Rights Commission any further. That will be the day.

Mr. RODINO. So long as we have reached the objective we are all seeking to attain.

Are there any further questions?

Mr. Counsel?

Mr. FOLEY. Mr. Mills, in regard to the disposal of surplus property, does this nondiscrimination clause enter into that picture?

Mr. MILLS. Surplus property is disposed of to all citizens, usually through auction or bid, so that we have never had any case that I am aware of where this particular type of discrimination matter was involved.

Mr. FOLEY. I do not know this, and I ask this question for my own personal knowledge. Do you have the sole responsibility for the disposal of surplus property, your agency?

Mr. MILLS. We do for the civilian agencies—

Mr. FOLEY. For the civilian agencies.

Mr. MILLS. And we also provide disposal assistance to the Department of Defense in some cases. It varies in various sections of the country as to how much that assistance may be. If they call on us voluntarily we will be glad to assist them, and the Air Force has used us to some considerable extent across the country in helping them dispose of some of their surplus.

Mr. FOLEY. But there is neither policy nor regulation in your agency with regard to disqualifying a bidder on the basis of racial discrimination?

Mr. MILLS. No; there is no such thing.

Mr. FOLEY. There is no such thing, and you do not know of any question about it?

Mr. MILLS. No; there has been no question about it.

Mr. FOLEY. That is all.

Mr. RODINO. Any further questions?

Thank you very much, Mr. Mills. We appreciate your coming here.

Mr. MILLS. I am sorry to have held up your lunch.

Mr. RODINO. That is perfectly all right.

The committee will now adjourn until 2:15 this afternoon when we will resume.

(Whereupon, at 12:50 p.m., the committee took a recess until 2:15 p.m., the same day.)

AFTERNOON SESSION

Mr. RODINO. The committee will resume its hearing.

Our first witness will be Mr. Irvin Lechliter, executive director of the American Veterans Committee. Mr. Lechliter.

STATEMENT OF IRVIN LECHLITER, EXECUTIVE DIRECTOR, AMERICAN VETERANS COMMITTEE

Mr. LECHLITER. Mr. Chairman, members of the committee, I am Irvin Lechliter, executive director of the American Veterans Committee. We are an organization composed of veterans of World War I, World War II, and the Korean war and our national offices are located here in Washington at 1830 Jefferson Place.

We are most grateful for an opportunity to present our views to this committee on Civil Rights Legislation that we should like to see come out of the 86th Congress.

I have submitted a statement in writing, and if it is agreeable with the committee, I should like that statement to be inserted in the record and then in the interest of time, may I briefly summarize orally what is in the formal statement?

Mr. RODINO. I think that would be a wise procedure.

Mr. LECHLITER. That will save some time.

Mr. RODINO. The statement will be inserted in the record.

(The document referred to follows:)

STATEMENT OF THE AMERICAN VETERANS COMMITTEE (AVC) ON CIVIL RIGHTS
LEGISLATION PRESENTED BY IRVIN LECHLITER, EXECUTIVE DIRECTOR

I am Irvin Lechlitter, national executive director of the American Veterans Committee. AVC's membership is composed of veterans of World War I, World War II, and the Korean war. Our national headquarters are located at 1830 Jefferson Place NW. here in Washington. AVC is grateful for an opportunity to present its views on civil rights legislation in the 86th Congress to this distinguished committee.

I have a prepared statement and I should like to request that it be included in the record of these hearings. Meanwhile, with the permission of the committee I should like briefly to summarize orally the contents of that statement.

At the outset, may I inform the committee that our National Board has within the last fortnight unanimously adopted a resolution which places the American Veterans Committee in a position of wholehearted support of Congressman Celler's bill (H.R. 3147) in the field of civil rights. I know that several other bills similar in purpose have been introduced in the 86th Session, but for convenience I shall refer only to H.R. 3147. We support the legislation envisaged in that bill for the following reasons:

1. H.R. 3147 specifically finds that Supreme Court decisions on racial segregation in public education, public transportation, and public recreational facilities are not only the "law of the land" as expressed by the Supreme Court, but that these rights must receive Federal legislative and executive approbation. H.R. 3147 makes this declaration in unequivocal language and declares that the equal protection of the laws guaranteed by the Constitution shall be protected by "all due and reasonable means."

2. Congressman Celler's bill has our endorsement also because it would provide mechanics which are nonexistent today for assisting communities in desegregating their schools, through conferences and discussions between all interested parties. Full facilities of the Federal Government are made available toward this end by H.R. 3147 and Federal funds are also made available for the implementation of plans made in cooperation between Federal and local authorities for achieving integration. This, AVC believes, is a moderate and reasonable approach to school integration in all areas of the Nation. Should a situation arise where all good faith efforts to achieve compliance with the supreme law of the land fail, then AVC thinks it is time for sterner measures and we therefore endorse the provision of H.R. 3147 which would authorize the Attorney General of the United States to institute civil action to force such compliance.

3. AVC should like also to record its endorsement of Congressman Celler's bill with respect to its title VI which would enact into law title III of the "Civil Rights Act of 1957" bill. This portion of H.R. 3147 would empower the Attorney General of the United States to initiate suits against State or local officials and others acting under color of State law in cases involving denial of equal protection, including school cases, by reason of race, color, religion or national origin, when the affected individuals are found unable, for fear of reprisal or other reasons, to sue for themselves. Suits are also authorized by the Attorney General against those who attempt to deprive persons of their rights under the 14th amendment because such persons are opposing the denial of the equal protection of the laws to others because of race, color, religion or national origin. Title VI of the Celler bill also authorizes the Attorney General to intervene in private civil rights suits.

4. Finally, with respect to H.R. 3147, may I record AVC's support of title VI of that bill which authorized the Attorney General to initiate injunction suits against persons who seek to obstruct Federal, State or local officials in desegregation situations, or who interfere with the execution of court orders. We are aware that H.R. 4457, introduced by Congressman McCulloch provides criminal sanctions for the obstruction of a Federal court school desegregation order by threats or force. In addition to what we consider to be other weaknesses in that provision of H.R. 4457, the criminal sanction is punitive. H.R. 3147, on the other hand, authorizes preventive action against the obstruction of justice.

With further reference to H.R. 4457, Mr. McCulloch's bill which embodies the civil rights legislative proposals of the administration, I shall comment only

on those portions of that bill which we in AVC think might be reported out of this committee as part of a comprehensive civil rights bill.

We believe that legislation is needed to strengthen the 1957 Civil Rights Act in the area of voting rights. Title III of the McCulloch bill requires election officers to retain and preserve all records and papers relating to any general, special or primary election for President, Vice President, Presidential Elector, Member of the Senate or Member of the House, for a period of 3 years from the date of such election and empowers the Justice Department to obtain such records under orders issued by any Federal District Court. This portion of the McCulloch bill is endorsed by AVC.

H.R. 4457 in title II purports to deal with Federal prosecution for the destruction of educational or religious structures. We think that bill inadequate in this respect, and we would urge your committee to include in this year's civil rights bill a provision which would establish as a Federal crime the transmission of explosives in interstate commerce for the purposes of damaging a business, educational, religious, charitable or civic building and private dwellings.

We note that H.R. 4457 provides that when a public school serving children of military personnel is closed to avoid integration, the Federal Government may provide schooling on the military base; and, with respect to schools constructed in the future, may take over the closed school from the State and operate it, providing the school was built in whole or in part with Federal funds. This proposal does not reach the basic defect in Public Law 815 and in Public Law 874, which is the absence of a requirement that grants-in-aid of school construction and maintenance under those laws be used in conformity with Supreme Court decisions.

If I may close my testimony with a gratuitous comment, I should like to say that so far as I am aware there has not been introduced in the House proposed legislation which would establish "conciliation" procedures in civil rights cases and we hope that none will be because AVC believes that such a proposal is a step backward in civil rights legislation. We agree that property rights may be conciliated, but we insist that a constitutional right can never, in justice, be conciliated.

Mr. LECHLITER. Thank you, Mr. Congressman. Fortuitously our National Board met here in Washington less than 2 weeks ago and, at that time, the Board adopted a resolution on civil rights which constitutes a very strong endorsement of Congressman Celler's bill, which is H.R. 3147. I have pointed out in my statement the reasons why we feel that this legislation should be adopted in this session of the Congress.

First of all, we think it is time that the Congress went on record by referring to Supreme Court decisions in the field of civil rights as the law of the land. We think that this will be of great assistance to people throughout the United States in understanding that the Supreme Court decision in the *Brown* case eliminating segregation in schools, for example, is the law of the land, and a part of the Constitution. Mr. Celler's bill does that effectively, we think.

We also like the provision of Mr. Celler's bill which provides mechanics which are not in existence today for assisting communities in desegregating their schools. By mechanics I refer to the fact that the Department of Health, Education, and Welfare will make facilities, and money also, available to facilitate integration. This is a moderate and a reasonable approach. It gives every opportunity to everybody at any level of government to be heard and to participate in working out feasible methods of integration in schools. We think also that if, after all diligence, no reasonable desegregation program can be worked out, then it is time for sterner measures to be taken, and we like the provision of H.R. 3147 which would authorize the Attorney General to institute civil actions to force compliance.

Title VI of Mr. Celler's bill, as you know, is a reenactment of title III of the civil rights legislation that was considered by the Congress

last year, and we strongly endorse that. We think that the Attorney General of the United States should clearly have the power to initiate suits against State or local officials, or anyone else who is attempting to deprive people of their rights under the Constitution, and we think it also good that the Attorney General is authorized to intervene in private suits involving contraventions of constitutional rights.

Title VI of H.R. 3147, which authorizes the Attorney General to initiate injunction suits against persons seeking to obstruct officials in desegregation situations, we believe should be enacted into law. I am aware that there is a somewhat similar provision in Congressman McCulloch's bill, which is H.R. 4457, but the reason, or one of the reasons, that we prefer Mr. Celler's bill is because it authorizes preventive action. Under H.R. 3147 the Attorney General can move in before these situations have gotten out of hand.

I should like now to say a few words with respect to Mr. McCulloch's bill. That bill embodies the civil rights proposals of the administration. AVC has not taken a position on all of those proposals, but we think certainly that one part of Mr. McCulloch's bill should become a part of a comprehensive civil rights bill that will be reported out by this committee. I refer specifically to the provisions of the bill in the area of voting rights.

The 1957 Civil Rights Act, of course, went a long way toward guaranteeing voting rights to all citizens, but we believe that the Justice Department ought to be authorized to obtain court orders to look at voting records, and we don't want a situation where the records may be destroyed, or all of the officials of the elections board resign.

A word on title II of H.R. 4457, which provides for Federal prosecution for the destruction of educational or religious structures. That is fine, we think, as far as it goes. But we think that this portion of the legislation to protect against bombings and the transmission of explosives in interstate commerce should be applicable to business, educational, religious, charitable, or civic buildings, and also to private dwellings. It seems to me that unless we get legislation that will enable the Federal Government to take action in the case of the destruction of a private dwelling, we have not gone as far as we should.

Similarly with respect to H.R. 4457 and that portion of it which provides that when a public school serving children of military personnel is closed to avoid integration, the Federal Government may provide schooling. That too is fine as far as it goes, but there is a basic defect in legislation that it does not reach. Public Law 815 and Public Law 874 are laws under which the Federal Government makes grants in aid for school construction and maintenance.

We think that there should be legislation adopted that would make those laws operable only under circumstances requiring that schools be constructed and operated in conformity with Supreme Court decisions. AVC has been troubled for some time by the situation in Little Rock, Ark., at the Air Force base where there is a federally constructed school on State-owned land, and the colored children of military personnel can't go to that school even though it was constructed with Federal funds. They have to go some distance away to a segregated school in Arkansas. It is for that reason that I mention what we think are deficiencies in those two laws in this testimony.

I shall make one more comment, and that is that so far as I am aware there has not been introduced any proposed legislation which would establish conciliation procedures in the House, and we hope that none will be, because AVC believes that such a proposal is a step backward in civil rights legislation. We agree that property rights may be conciliated, but we insist that a constitutional right can never in justice be conciliated.

Mr. RODINO. Mr. Holtzman.

Mr. HOLTZMAN. I have no questions.

Mr. RODINO. Mr. McCulloch?

Mr. McCULLOCH. Yes, Mr. Chairman. Perhaps what I shall have to say is in the nature of an observation rather than a question. I regret that the witness takes such a dim view of the administration bill. We are of the opinion that the provisions therein contained are a moderate, temperate approach embracing a policy of the golden mean; an approach which we think can be implemented. It is important, in this field, to keep moving in the direction which we finally wish to reach. We have made unbelievable progress in the last 4, 5, or 6 years, as much or more than in all the other time since the end of the War Between the States. The administration bill will continue that progress.

Now, I do have this question that I would like to ask of the witness, Mr. Chairman. Near the end of your statement I understood you to say that you believe it would serve a useful purpose for the executive department of the Government to withhold authorized and appropriated funds of Congress if there was any improper dragging of feet in this field. Is it your studied judgment that such an approach is in the interest of our representative form of government and should be pursued by the executive department in all parallel or kindred cases?

Mr. LECHLITER. Mr. McCulloch, if I said that, I did not mean to say that. I was talking about this. You have reference, perhaps, to my reference to two laws under which Federal grants-in-aid are made for the construction of public schools, in federally impacted areas, and I was saying that I should like to see those laws amended so that funds granted for the construction of facilities in those areas would carry with them a requirement that the schools be desegregated schools.

Mr. McCULLOCH. I am glad to have that clarification.

Mr. LECHLITER. That is what I meant to say.

Mr. McCULLOCH. Because I feel so strongly about a continued course of action on the part of the Chief Executive, or the executive department in general, which would thwart or come in conflict with authorizations or appropriations of the legislative branch of Government, I feel it a duty to oppose any such proposal.

If it be legislative policy, of course, then it is in accordance with our Constitution.

Mr. Chairman, I would also like to ask if I understood the witness to say that he believes that in title II of my bill, H.R. 4457, that this title would be materially improved if private dwellings and business structures and other structures of like kind were included in that title?

Mr. LECHLITER. Yes, sir, that was my recommendation.

Mr. HOLTZMAN. Will you yield at that point?

Mr. McCULLOCH. Yes.

Mr. HOLTZMAN. I may remark for the record that I think we can find that there have been substantially over 70 bombings of all types and kinds. There has been no conviction yet, and I think that is a fair and accurate statement of the facts as they exist, and if we are going to try to prevent this type of thing, frankly I am of the opinion that it should apply to residences as well as public institutions.

Mr. FOLEY. In your statement on page 2, referring to Mr. Celler's bill, H.R. 3147, with respect to title VI, which is similar to the old title III of the Civil Rights Act of 1957, do you agree with me that the provisions of title VI of Mr. Celler's bill are broader than those contained in title III of the Civil Rights Act of 1957?

Mr. LECHLITER. I think they are, Mr. Foley, but I have not made a detailed analysis.

Mr. FOLEY. The reason why I say that is this: In the report that accompanied the civil rights bill, there was this statement:

The effective provisions of the proposed bill under existing law as contained in title 42 of the United States Code, section 1980, is not to expand the rights presently protected but merely to provide the Attorney General with the right to bring a civil action or other proper proceeding for relief to prevent acts or practices which would give rise to a cause of action under the three existing subsections.

Under title III as it was in 1957 in the House, the cause of action had to exist. The additions were purely procedural authorizing the Attorney General to appear and authorizing him to prosecute the civil action.

Mr. LECHLITER. Yes.

Mr. FOLEY. But under this proposed title VI, no reference is made to 1980 of title 42. It refers to a denial or deprivation of equal protection of the laws.

Mr. LECHLITER. Right.

Mr. FOLEY. That is all, Mr. Chairman.

Mr. RODINO. Thank you very much, Mr. Lechlitter. We appreciate your coming here and testifying on the chairman's bill. In view of the fact that there is an automatic rollcall now at this time, the committee will take a recess and we will resume at 3 o'clock.

The next witness will be Mr. Edelsberg.

(Short recess.)

Mr. RODINO. The committee will now resume and we will hear from Mr. Herman Edelsberg, the Washington representative of the Anti-Defamation League of B'nai B'rith.

Mr. Edelsberg.

STATEMENT OF HERMAN EDELSBERG, DIRECTOR OF THE WASHINGTON OFFICE, ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH

Mr. EDELSBERG. Thank you very much, Mr. Chairman. First, I want to express the regrets of Mr. Henry E. Schultz our national chairman who had planned to come here and present the testimony of the Anti-Defamation League and finds he is unavoidably detained in New York. He has asked that I submit his statement for the record.

Mr. RODINO. That will be accepted for the record.

(The document referred to follows:)

STATEMENT OF HENRY EDWARD SCHULTZ, NATIONAL CHAIRMAN, ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH

The Anti-Defamation League of B'nai B'rith once again comes before this committee to add its voice to those of the many religious, civic, veterans, and educational groups, representing many millions of Americans of all faiths, which have been petitioning Congress to enact legislation to promote sound and orderly accommodation to the recent Supreme Court decisions on public school education.

The Anti-Defamation League is the education arm of B'nai B'rith, America's largest and oldest Jewish service organization, having been founded in 1843. It seeks to promote good will and understanding among Americans of the various religious, ethnic, and racial groups, and to prevent discrimination against any of them. To this end it has developed a vast library of education materials and programs widely used by the schools and the mass media of America. The ADL program has its roots in the religious teachings of Judaism: that man is a creature of God; that all men are equal before the Almighty; and that the dignity of the individual is God-given and must not be violated—teachings which are shared, of course, by all our great religions.

It is not our purpose in this brief statement to go into any detailed analysis of the provisions of the various bills before this subcommittee. We intend only to stress the importance of action by Congress to help bring about an orderly compliance with the law of the land, to facilitate the necessary transition, and to preserve the public school system.

We believe that the House reflected the will of the American people when it passed the bill, which later became the Civil Rights Act of 1957, by a better than 2-to-1 majority, in the form recommended by the administration and sponsored by Chairman Celler.

However, the Senate deleted part III of the bill, which would have given to the Attorney General the same civil and equitable powers for enforcing general civil rights which other parts of the bill gave him with respect to voting rights.

It is clear that much of the trouble in Little Rock stemmed from local miscalculation regarding the interest and determination of the Federal Government to enforce the law laid down by its courts. Striking part III contributed to this miscalculation. It is important therefore for Congress to show its determination that constitutional rights should not be vitiated by mob violence or official nullification.

Some students of the Little Rock episode insist that sending Federal troops to Little Rock, however necessary that step was at the moment of decision, was unfortunate in that its polarized and solidified attitudes on two sides of a no man's land.

Whether this view is correct or not, it is obvious that it would be helpful were the Federal Government to make it crystal clear before trouble develops that it is insisting upon compliance with the law. The Government's concern is not to coerce, not to ignore local differences; it is simply to prevent a flouting of the law of the land, and to give aid and counsel to the forces seeking a wise and practical accommodation to that law.

There are a number of bills before your committee which undertake to do this. H.R. 3147, introduced by your chairman and commonly called the Douglas-Javits-Celler bills, aims in a comprehensive and constructive way to make available the resources of the Federal Government to communities seeking to comply with the law and needing such assistance. The bill also recognizes that continued, organized defiance of the law can only produce constitutional and social chaos; and therefore it gives to the Federal Government the power to take steps on its own, where necessary, to secure obedience to the mandates of the Constitution. These steps include technical, educational, and financial aid in substantial measure. Only where these aids are declined—and only after negotiation with local authorities fail to secure compliance with constitutional rights—is it expected that the Federal Government will take injunctive action.

H.R. 4457, the administration bill introduced by Mr. McCulloch, would also affirm congressional support for the Supreme Court's 1954 decision as the supreme law of the land. The scope and extent of the program of financial and technical assistance provided under H.R. 4457 is less than in the Celler bill, and it omits any provision for Justice Department enforcement powers. The bill makes it a crime for anyone to use force or threats to interfere with any Federal court order in school desegregation cases. This provision, it seems

to us, might well be broadened to cover force or threats designed to interfere with efforts on the part of local officials who move voluntarily to comply with the Supreme Court's decision. There seems to be no good reason why a community that proceeds voluntarily in good faith should have less Federal aid than one which waits to be ordered by a Federal court.

The Douglas-Javits-Celler bill would extend such a helping hand to local officials who are seeking to comply with the law by authorizing the Attorney General to bring civil suits against persons who attempt to prevent them from doing so. It would give to local officials the kind of Federal protection which they seek—and which they are now unable to obtain. This was emphasized last week at the Nashville conference called by the Civil Rights Commission of educators from a score of border State communities which have successfully desegregated their school systems. At this conference, the chairman of the Clinton, Tenn. School Board declared that he had been unsuccessful, for the most part, although he had tried numerous times, to obtain Federal assistance in enforcing the school desegregation order against lawless elements. "We don't ask for a reward for obeying the law," he said, "but if any Federal agency forces us into such an intolerable situation, then we think we have a right to obtain help from the Federal Government."

Both these bills insofar as they are legislative efforts to provide Federal aid for orderly transition are steps in the right direction.

I am sure that we all agree that voluntary compliance with the law without Federal intervention should be encouraged. All of us can be proud of the orderly and dignified manner in which school desegregation was accomplished in Arlington, Norfolk, and Alexandria, Va. What happened in Virginia was a repetition of what already had taken place in other communities around the country and will be repeated in the future in other areas. While a strong and determined community leadership can accomplish desegregation in an orderly manner, it is essential that the Federal Government be given standby authority so that it can act promptly and effectively where violence is threatened and constitutional rights are being denied. Giving the Federal Government this standby power will make clear the interest and determination of the Federal Government in seeing that the law is enforced and that disorder will not be tolerated. It will deter would-be troublemakers, and create an atmosphere in which adjustment to the supreme law of the land can be achieved calmly and smoothly and without leaving deep-seated scars of bitterness and hostility.

The bills we have cited, as well as many others before this committee, wisely avoid any suggestion of naked force or Federal fiat. They recognize that in the difficult and delicate field of regulating human relations, the utmost voluntary concurrence and acquiescence is devoutly to be sought. Every opportunity is offered to State and local authorities to proceed in good faith to obtain accommodation for local conditions which validly warrant such consideration.

Before concluding, we should like to say a word about the bills to curb the unlawful dynamiting of schools, places of worship, homes, and community centers. Last year we testified before subcommittee No. 3 in support of legislation which would give the FBI authority to investigate such dynamitings where the facilities of interstate commerce have been used to transport explosives. We do not intend to repeat our testimony at this time. We understand that these bills are once again before the same subcommittee, although title II of H.R. 4457 is, of course, before this subcommittee. These bills in our view are not civil rights bills, but law and order bills which enjoy widespread support among members on both sides of the aisle, as well as on both sides of the Mason-Dixon line.

Two different legislative approaches have been suggested in an effort to cope with the unlawful dynamitings: The one embodied in title II of H.R. 4457 makes it a Federal crime for a person to flee across States lines to avoid arrest or prosecution for a bombing; the other, contained in H.R. 1240, makes it a crime to ship explosives in interstate commerce for the purpose of bombing any building. Both bills have the same objective—that of preserving primary State and local law enforcement responsibility for the investigation of unlawful dynamitings and at the same time providing for FBI investigation when dynamitings do occur. H.R. 1240 would, however, insure immediate FBI investigation in the event of a dynamiting by creating a rebuttable presumption that if a dynamiting occurs, the explosives were shipped in interstate commerce. In order to obviate any constitutional question, the bill wisely provides that no person may be convicted under the bill unless there is independent evidence to establish that the dynamite was in fact shipped in interstate commerce.

What Congress does this year will perhaps be decisive in determining whether there will be a new series of September disorders in American public schools, or whether American citizens will take the peaceful, orderly path blazed by Washington and Louisville, by San Antonio and Norfolk, and by scores of communities around the country. For the sake of our national honor and world reputation, for the strength of our public schools and the welfare of our children, Congress must help find a peaceful solution for next September and the Septembers following.

Mr. EDELSBERG. I should like informally to make a few observations about the points which seem central to us in this whole problem.

As we have studied the human relations implications of the current desegregation crisis, the central problem shapes up something like this. You have found undoubtedly—even from your southern colleagues—that there is a growing feeling that public school desegregation is inevitable. The only real issue is how that desegregation will be brought about.

Will it be brought about after a last-ditch fight, after a continuous parroting of the self-defeating slogans of massive resistance and “no, never,” or will it come about by the kind of orderly accommodation which I think is the tradition and the genius of the American people?

If it comes about after that kind of bitter-end resistance, then even after you have desegregation, you will have the kind of scars that will plague race relations for years to come.

I think the main concern of the Congress, then, is to facilitate the orderly process of desegregation; to do what it can to minimize the inevitable dislocations and to preserve, defend, and promote the public school system of the United States.

We think that the House reflected the will and the aspirations and the interests of the American people back in 1957 when, by a vote of better than 2 to 1, it undertook to give to the Department of Justice power to enforce general civil rights including the right to desegregated education.

However, the Senate deleted that section of the House version of the civil rights bill which has come to be known popularly as part III, and the bill was silent in the area of the 14th amendment rights as against the 15th amendment right of suffrage, which was protected.

Now, in our judgment, much of the trouble that cropped up in Little Rock later that year stemmed from a local miscalculation on the part of citizens and on the part of officials regarding the interest and determination of the Federal Government to enforce the law laid down by the Federal courts.

We don't think that the explosion in Little Rock would have occurred if it had been crystal clear to the dominant elements in Little Rock that the Federal Government meant to intervene in the situation and not to stand by until a point was reached when there seemed to be no choice but to send in Federal troops to preserve the honor and dignity of American law.

The Congress, it seems to us, could be performing a very constructive service by adding its voice to the voice of the Supreme Court in this area, by making it crystal clear that the Congress wants to implement the decision of the Supreme Court in *Brown v. Board of Education of Topeka*.

The Government's concern, of course, should be not to coerce, not to ignore local differences; it should be, simply, to prevent a flouting of the law of the land, and to give such aid and counsel to the forces seek-

ing a wise and practical accommodation to the law as in its judgment seems proper.

We are happy that there are before your committee a great number of bills which undertake to do that. Two of them I suppose are typical of many and are the principal vehicles. One of them is the bill that has come to be known as the Douglas-Javits-Celler bill, which aims in a comprehensive and constructive way to make available the resources of the Federal Government to communities seeking to comply with the law and needing such assistance.

The law recognizes that continued, organized defiance can only produce constitutional and social chaos, and therefore it gives to the Federal Government the power to take steps on its own, where necessary, to secure obedience to the mandates of the Constitution.

These steps wisely include technical, educational, and financial aid in substantial measure. And it is only where these aids are declined—and only after negotiation with local authorities fail to secure compliance with constitutional rights—that it is expected that the Federal Government will take injunctive action.

Another principal bill is the administration bill, H.R. 4457, introduced by Mr. McCulloch, which would also affirm congressional support for the Supreme Court's 1954 decision as the supreme law of the land. The scope and extent of the program of financial and technical assistance is less than in the Celler bill and it omits any provision for Justice Department enforcement powers.

The bill, however, does make it a crime for anyone to use force or threats to interfere with any Federal court order in school desegregation cases. It seems to us that this provision should be extended and expanded, because I see the possibility of some mischief in it. I can conceive of a situation where a school board wants on its own to proceed to desegregate. The vote may be something like 4 to 1 in favor of proceeding without waiting to be hit on the head by a Federal court order, and the one dissenter says "Why should we undertake this task on our own when there is a strong minority opinion in our community that may make trouble, that may encourage violence. If we proceed on our own, the Federal Government won't come in and help us. But if we wait until a Federal court order directs us to proceed to integrate, then the Federal Government will be bound under H.R. 4457 to come in and help us."

I think there is no valid basis for making that kind of distinction. There is no reason why a community that proceeds voluntarily in good faith should have less Federal aid than one which waits to be ordered by a Federal court.

In this connection I am reminded of the comment made by the chairman of the school board in Clinton, Tenn., which suffered a plague of ills as a result of its voluntary desegregation.

First, there was mob violence, attacks on citizens and on school-children. Then there was the bombing of the building. You will recall the Clinton, Tenn., people came up here to see what aid they could get from the Federal Government.

They got some but it was unsatisfactory to them. Just recently at this Nashville, Tenn., meeting of the Civil Rights Commission, the chairman of the school board declared:

We don't ask for a reward for obeying the law, but if any Federal agency forces us into such an intolerable situation, then we think we have a right to obtain help from the Federal Government.

I think, too, that any community that wants to take the decision in *Brown v. Topeka*, handed down by the Supreme Court in 1954 as the law of the land and to proceed without its specific application to that community by the local district court should have all the protection that the Attorney General is prepared to give to a school board that waits until it is directed specifically by a local court order to proceed to desegregate.

I want, however, to emphasize the point that both these bills provided Federal aid for orderly transition and therefore are in our opinion steps in the right direction.

I want to emphasize this concern of the Anti-Defamation League in this whole area. We think that the devoutly to be sought goal is the maximum of voluntary compliance and acquiescence.

Sometimes perhaps we make our friends unhappy by saying we would rather take half a loaf.

Mr. RODINO. Pardon me. Right there when you say where there is voluntary compliance, but when you are aware of the fact, as is pointed out in one of the periodicals, the Southern School News, that the States have passed some 145 laws in 1958 for the purpose of maintaining segregation, how can you expect that to come about?

Mr. EDELSBERG. None of the State is monolithic.

Mr. RODINO. That is just a prayer.

Mr. EDELSBERG. None of the States is monolithic. Look at Virginia. Virginia has many different types of communities. In Norfolk, in Charlottesville and in Arlington there was a disposition on the part of a substantial number of the white citizens and of practically all the colored citizens to proceed to do that which the law required. Now if Congress added its voice to that of the Supreme Court, if it provided the financial and technical and legal aids, you would find more communities all around the South proceeding to do the things which have been done in San Antonio, in Charlotte, N.C., in half a dozen small towns and cities in Arkansas, and elsewhere in the South.

Mr. McCULLOCH. As a matter of fact, Mr. Chairman, I would like to ask the witness this question: Isn't there integration going on in many places in the land of which we hear little about? It is the bad things, it is the irritating things, it is the opposition to authority which gets the headlines and the attention of the people, isn't it?

Mr. EDELSBERG. You have really asked two different questions.

Mr. McCULLOCH. Break it down.

Mr. EDELSBERG. The headlines are captured by the disorders and the violence which attend the Clinton, Tenn., episode or the Little Rock episode, but we also are informed about those communities which proceed in an orderly way to desegregate. We make it our business to do that, to know about that and each of these communities encourages the others.

Superintendents of schools generally know what is happening in related communities.

Mr. McCULLOCH. I hope that you continue your efforts in the field to see that good news, positive action, gets the same attention and the same size headlines that bad news and unpleasant conditions get.

Mr. EDELSBERG. Yes. Another way of putting it, Mr. McCulloch, is to say that nothing succeeds like success in this area. I think that what happened in Virginia is going to have a very salutary effect,

but I would not like to see the momentum developed by Virginia lost because the Congress failed to do that which it should have done earlier: Added its voice to the Supreme Court and said to those who would agitate the question in the South, "It isn't true that the Congress does not care about this. It isn't true that we deleted part III because we don't care what happens in public schools."

Mr. RODINO. In other words, a flouting of the law should not be ignored.

Mr. EDELSBERG. That's right, sir, and this may seem like almost a paradoxical argument, but if the Congress does put teeth in some of these laws, it will increase the chance of acquiescence and voluntary compliance. It will become unnecessary for people to go to court to secure their rights if Congress makes it crystal clear that Congress will do things to secure these rights.

Mr. HOLTZMAN. Mr. Chairman, on that point do you recall the colloquy I had with the Attorney General that when people begin to realize the inevitability of this thing?

Mr. EDELSBERG. Yes.

Mr. HOLTZMAN. And are you of the opinion that the inevitability of integration and equal opportunity in every field of endeavor will be hastened by a strong title III or what was title III in the last Congress?

Mr. EDELSBERG. Yes, I think the whole process would be helped, but I am not just interested in the timing in which this is done. Two words that I think are misleading are moderation and time. The really crucial words, the crucial word is the effectiveness with which this is done. After all, you don't want token desegregation. You don't want an undermining of the public school system. Isn't it better to wait a year and get the maximum community acquiescence and the maximum protection for a genuine process of desegregation?

Mr. RODINO. Does that complete your comment?

Mr. EDELSBERG. Now, sir, some of these bills include provisions described as antidynamiting legislation. I understand, however, that the Judiciary Committee has entrusted to Congressman Willis' subcommittee the action in that area.

I would like, however, to emphasize just two propositions to this committee. I think a number of bills before you look toward the intervention by the FBI immediately in cases of dynamitings which may be described as hate bombings, bombings which stem from racial or religious controversy or bombings which are an aspect of community tensions arising from desegregation.

I think that is the real basis for Federal concern in this area. I am one who believes that it is wise for crimes to be handled on the local level, that the less Federal intervention the better. But I think this is the kind of crime which derives from the basic national controversy over civil rights and desegregation.

I think the lawlessness implicit in some of the massive resistance programs has given aid and comfort to some of the sick minds who do the actual dirty work of bombings. I would not for a moment suggest that some of the very fine Congressmen who are still opposing desegregation would want to have any truck with the dynamitings. Undoubtedly it is as distasteful to them as it is to us.

But I think it is inevitable that this preaching of defiance of law in one area encourages the sick and the warped minds to feel that there is a kind of hospitality for the unlawful acts they undertake.

Mr. RODINO. We can all agree, I am sure, that none of us like Federal intervention just for the sake of Federal intervention, but where Federal intervention may correct a situation, then I think that it becomes necessary.

Mr. EDELSBERG. Now, we are soon going to be approaching a new September, and what Congress does in the next few months may be decisive in determining whether there will be a new series of disorders in American public schools or whether American citizens will take the peaceful orderly path already blazed by Washington and Louisville, by San Antonio and Norfolk and by scores of the other communities around the South. For the sake of our national honor and world reputation, for the strength of our public schools and the welfare of our children, Congress must help find a peaceful solution for next September and the Septembers following.

Thank you.

Mr. RODINO. Any questions, Mr. McCulloch?

Mr. MCCULLOCH. I would like to ask just one further question, after that very tempered and learned statement. This is the question. Aren't some of the same type elements, mental and emotional, involved here in the destruction of property by bombing and otherwise, as are involved in labor-management violence?

Mr. EDELSBERG. I don't know, sir. We have kept a chart of the bombings we describe as hate bombings, bombings which clearly indicate a motive to deprive people of civil rights or to intimidate them out of exercising their civil rights.

The bombing of a home of an NAACP leader, the bombing of a minister who has called for respect for the Supreme Court decisions, these are the kinds of things we have charted and we have found there have been more than 80 in the last two years and a half.

Mr. MCCULLOCH. And you have limited your observations to that field?

Mr. EDELSBERG. We have. I think Congress would be a better judge whether the two kinds of bombings should be handled together. My own feeling is, just based on general observation, that Congress has traditionally distinguished the labor relations area and treated it in a separate way as being *sui generis*.

Mr. MCCULLOCH. But I would like to ask this additional question. If there be a bombing or a destruction of property, or the injury to a human being, from whomsoever it may come—now I am not referring to any particular group—

Mr. EDELSBERG. Yes.

Mr. MCCULLOCH. In the fields affected by Federal legislation, isn't the hurt substantially the same?

Mr. EDELSBERG. The hurt?

Mr. MCCULLOCH. Isn't the hurt substantially the same? In other words, it does not make much difference whether a house or an institution is bombed?

Mr. EDELSBERG. I would think so. The hurt is substantially the same.

Mr. RODINO. These bombings that you specifically refer to, which you say you have charts of, these are bombings which you describe as hate bombings?

Mr. EDELSBERG. Yes, sir; where the motivation is clearly an infringement of civil rights.

Mr. FOLEY. What standard do you use to determine what is hate, hate of what?

Mr. RODINO. In other words, the term you have used "hate" what is it descriptive of?

Mr. EDELSBERG. This is a shorthand we use in the antidefamation league and other human relations agencies use it too.

Where the circumstances of the bombing suggest that the motive was racial or religious prejudice or a desire to punish a leader of a racial or a religious group who is seeking to exercise constitutional rights, we describe it as a hate bombing.

You could call it a civil rights bombing or a prejudice bombing.

This is just our shorthand description of that kind of situation. We have counted more than 80 of these since the first of 1956.

Mr. HOLTZMAN. Mr. Chairman, a question was asked as to whether or not the hurt to the individual was substantially the same. There is no question about that.

However, Mr. Edelsberg, there is something substantially more important in connection with these hate bombings, and I might observe that this becomes a national disgrace. It demeans us to our own people and to our allies.

Mr. EDELSBERG. Yes.

Mr. HOLTZMAN. And therein lies the reason why there must be substantially more intervention.

Mr. EDELSBERG. I would think that would be a very persuasive reason, Mr. Holtzman. Yes. Certainly an ordinary dynamiting that stems from jealousy or from labor troubles does not get the kind of play that the bombing of the Atlanta synagogue got.

Mr. HOLTZMAN. And certainly that would be no reason to interfere with the police powers of the State but the other thing is a Federal problem.

Mr. EDELSBERG. Yes.

Mr. HOLTZMAN. No further questions except to say Mr. Edelsberg, as usual, has made a very fine presentation.

Mr. EDELSBERG. Thank you, sir.

Mr. RODINO. I would like to thank you, Mr. Edelsberg, for the very, very excellent and intelligent presentation. We of course feel the Anti-Defamation League which he represents in making this presentation should be complimented for these very interesting views as to this problem.

Mr. EDELSBERG. Thank you, sir.

Mr. RODINO. Our next witness is Mr. Al Hartnett, secretary-treasurer of the International Union of Electrical, Radio & Machine Workers. We welcome you here, Mr. Hartnett. We are ready to hear your testimony.

STATEMENT OF AL HARTNETT, SECRETARY-TREASURER, INTERNATIONAL UNION OF ELECTRICAL, RADIO & MACHINE WORKERS, AFL-CIO, ACCOMPANIED BY KENNETH PETERSON, LEGISLATIVE DIRECTOR

Mr. HARTNETT. Thank you very much, Mr. Chairman. I would like to preface my formal statement by expressing support for the opinions ventured by the previous witness.

Mr. RODINO. I would like to acknowledge the presence of your legislative director, Mr. Ken Peterson.

Mr. HARTNETT. An unforgivable oversight on my part. I would like to say first of all that we do support as a union all of the testimony which was offered by the witness who preceded me to the stand. I would like too, to suggest that there is a great deal of detail into which we could have gone in providing our testimony, but we thought we would like more to let the committee know and the Congress know that the membership of our union is intensely interested in the legislation pending before it, known as the Celler bill, and to perhaps leave with the committee a few thoughts about certain aspects of the bill which we think they might want to think about.

I am very grateful to the committee for this opportunity to appear in support of legislation which, to our minds, brings greater guarantees of equal civil rights to all citizens.

We are especially pleased, Mr. Chairman, to appear in support of legislation which bears the name of Congressman Celler.

That name has, over the years, appeared in the forefront of the struggle to achieve and protect human rights and we are honored to give our backing to this bill which he has introduced into the House of Representatives.

We feel that the primary issues involved in the field of civil rights are twofold: moral and economic. We feel that the moral concerns transcend the economic and so our statement today is directed essentially toward the moral aspects of the situation.

We do believe, however, that a substantial case can be made to demonstrate that some management groups have inflamed, and helped perpetuate, discrimination for their own economic ends and advantages.

Our concept of the role of a trade union embraces a function as an agency expressing the beliefs of our members on moral questions in addition to economic questions.

We believe that a great wrong is being committed in our country and the members of our union have pledged themselves to join in every effort made to correct that wrong.

Our first reason for support of this legislation is, therefore, a simple one. We believe that it is right, so we are for it. We resent bitterly a situation where the words which underlie our concept of government have become suspect—where liberty, equality, and freedom are considered controversial.

An important aspect of our support of this legislation is its meaning for trade unions. We believe that the foundations of trade unionism are based on the rights which we are guaranteed and as these rights are limited, so is the functioning of the labor movement impaired. The very form of our unions, our objectives, and our methods are based on equal rights. We cannot exist, in our present form, without them.

In view of attacks on the Supreme Court and a propaganda drive which we believe is aimed at undermining the Court, we support approval of the desegregation decisions as expressing "the moral ideals of the Nation," and recognizing that "the Constitution is the supreme law of the land."

In our opinion, the Federal Government has been remiss in its failure to provide technical assistance for implementation of the Supreme

Court decision and we welcome the provisions of this bill which authorize such assistance and provide an appropriation for that purpose.

We support also the sections of the bill which provide for grants to States and local governmental units to cover added costs imposed by the process of desegregation.

We feel that grants to local communities, threatened by a cut off of State payments because they are attempting to comply with the law, are especially desirable.

I would like to quote from the "Resolution on Civil Rights" adopted by the Eighth Constitutional Convention of the International Union of Electrical, Radio & Machine Workers, AFL-CIO, in September 1958:

The Civil Rights Act of 1957 was seriously weakened by the elimination of title III, a section of the bill which was designed to protect all civil rights embodied in the 14th amendment * * *

With title III the Department of Justice would have been armed with additional powerful legal tools to secure compliance with the Supreme Court's decision in the school segregation cases.

We feel that titles VI and VII of H.R. 3147 are improvements of title III of the 1957 bill and so, acting on the advice and instruction of the governing body of our union, we urge adoption of these sections of the bill.

While voicing support of the Douglas-Javits-Celler bill, we would like to respectfully request consideration of additional measures which would, in our opinion, improve the outlook for attainment of equal civil rights.

We would be in support of legislation requiring that State voting records be preserved and kept available to any subsequent investigations into law violations.

We ask that the life of the present Civil Rights Commission be extended and that its authority be increased to include all civil rights cases.

We would also favor giving to the President's Committee on Government Contracts the power to terminate contracts or withhold contracts where discrimination has continued, or where appeals to racial prejudices have been used for economic purposes.

We recognize the need in a democracy for compromise. In most areas we agree that it is necessary. But in the area of civil rights there is little room for bargaining. We feel that trading and dealing in human rights is unacceptable to the conscience of our country.

We believe that the rights of each citizen are clearly stated in the Constitution of the United States, as amended, and we feel that failure to guarantee those rights has been a measure of our failure to reach true democracy.

Our country has, until recently, refused to look clearly at the great gap between our ideals and our achievement. It is now time for us to close that gap for all time by guaranteeing to each citizen those rights with which he is endowed by our Creator and by our Nation's Constitution.

I would like, Mr. Chairman, to add just a few remarks. In considering the various titles of the proposed Celler bill, it is hard to single out any one which is worthy of more consideration than the other.

However, in our testimony we did very much of that when we pointed particularly to the including of title VI and title VII, an improved form as we see it of the old title III in the original Douglas bill, as being perhaps the best and most advantageous piece of this legislation. It would give frightened citizens—people whose rights have been trampled upon from time immemorial—the comfort of knowing that their Government will stand behind them and the confidence of knowing that the Government can step in in their behalf without the necessity of them projecting themselves. This ought to be a source of great comfort to all of our Nation, particularly to those who would be oppressed by the loss of some of their civil and human rights and it would, I am convinced, contribute substantially to the relatively early elimination of the last vestiges of segregation that do exist in our land.

I wanted to make that observation, sir, because I think that the American public, the American people suffered a great loss when title III was stricken from the last bill. We feel an equally great loss will come at a much more inopportune time even than that should titles VI and VII be stricken in any form from the present legislation.

Mr. Chairman, that concludes my formal presentation.

Mr. RODINO. Thank you very much, Mr. Hartnett. I think your presentation is certainly a very helpful one. I could not agree with you more. It is a sad commentary when title III was stricken from the bill, and we hope that undertaking as we are now in these hearings that we may enact legislation which will once and for all correct that situation.

Mr. Holtzman.

Mr. HOLTZMAN. No questions.

Mr. RODINO. Mr. Toll?

Mr. TOLL. No questions.

Mr. RODINO. Mr. McCulloch?

Mr. MCCULLOCH. I agree with your statement concerning title III. I suppose that it will not hurt to have the record repeat that that title was not deleted by reason of action of the House?

Mr. HARTNETT. I understand.

Mr. MCCULLOCH. It was deleted after a very lengthy battle, and of course the record shows who was responsible.

Mr. Chairman, I am very pleased to note that Mr. Hartnett at the bottom of the page says that he would approve legislation which is described in H.R. 4457 under title III pertaining to Federal election records. Might I conclude that you approve that title in the bill which I introduced, the administration bill?

Mr. HARTNETT. You can conclude, sir, that I approve that portion of your bill which provides that voting records ought to be retained. I do think that this would represent an improvement of the presently proposed Celler legislation, but in all other respects I think I am safe in saying it is my impression that the Celler bill is manifestly superior to the proposal that has been made by the Congressman, with no disrespect intended, sir.

Mr. MCCULLOCH. Yes. Well, of course, you know in legislative proposals in most instances there is no unanimity of opinion. I was struck however, by the fact that by name you approved the Celler bill, which is very fine on your part, and the Douglas-Javits-Celler

bill, but you had no comment on the Johnson bill on the one hand or the McCulloch bill on the other.

Mr. RODINO. I am sure that the gentleman intended that provision which applies to the McCulloch bill—

Mr. HARTNETT. On this point if I may, Mr. Congressman, since you have mentioned the Johnson bill, I would like to read to you from a release I made several weeks ago about my feelings on that bill, and I would quote from it by saying:

Horsetrading by any so-called liberal on a level proposed by either the Republican administration or U.S. Senator Lyndon Johnson can be considered nothing less than a betrayal of the liberal concepts of true civil rights.

You might resent the lumping—

Mr. McCULLOCH. I do not propose to interfere with the rights of the gentleman to use the word "betrayal" or to connect H.R. 4457 with the Johnson bill because there is no unanimity among people who can read concerning the differences between the Johnson bill and the McCulloch bill as they seek to solve this problem. But I think there is a tremendous difference. I think H.R. 4457 is a much more positive step forward and I also believe that there is much more likelihood that the major portions of 4457 will become the law of the land. But the gentleman may go ahead and continue with the statement concerning the Johnson bill and the McCulloch bill.

Mr. HARTNETT. Mr. McCulloch, I would agree with you thoroughly, and I make no reservations about this, that the McCulloch bill is superior to the Johnson bill.

Mr. McCULLOCH. You think it is the golden mean. (I like that phrase.)

Mr. HARTNETT. If I were to say all that I felt about the Johnson bill during the course of this hearing we would probably consume the rest of the afternoon but I will not embarrass anybody.

Mr. HOLTZMAN. Will the gentleman yield? Intending no disrespect to my beloved friend here, all that glitters is not gold, while we are talking about golden means here. And some people may think that while yours is a 14-carat bill, Congressman Celler's bill may be 18 carat, which is substantially better.

Mr. McCULLOCH. I would not be surprised if some people honestly think that the chairman's bill was 24 carat. But in my long legislative experience, at the State and at the national level, it seems to me that legislatures are not always able or willing to buy a 24-carat product.

Mr. RODINO. We may have to take a lesser product.

Mr. HOLTZMAN. They try to sell it to them though.

Mr. McCULLOCH. Yes, and we did try.

Mr. HARTNETT. I don't think that we ought to, once having failed, forsake the idea of accomplishing a 24-carat bill.

Mr. RODINO. We always seek to attain the highest goal.

Mr. HARTNETT. The highest. Remember Robert Bruce.

Mr. RODINO. We may fall short but nonetheless we must strive in that direction. I think the gentleman on my right intends to go in that direction.

Of course, he recognize sometimes that there are some obstacles.

Mr. McCULLOCH. That's right.

Mr. RODINO. And that is the reason for his statement.

Mr. McCULLOCH. I am prone to say now something that I should have said the other day when someone was talking about shooting an arrow into the air. If you only have one arrow, it may not be good judgment to shoot at the moon, especially if your target is much closer at hand.

Mr. HARTNETT. I think that the Celler bill, sir—I have to comment on that—I think that the Celler bill is consistent with the intent of the Constitution of the United States and the Bill of Rights as originally set forth. I do not believe they represent the moon, and an effort to implement the guarantees included in the Constitution and the Bill of Rights would not in my opinion be shooting arrows at the moon. I think we could all well join in that venture.

Mr. RODINO. Are there any further questions?

Mr. HOLTZMAN. No further questions. I could not have said it better than that.

Mr. RODINO. Thank you very much.

Mr. HOLTZMAN. Thank you, Mr. Rodino.

Mr. RODINO. That concludes the hearings for today. We will resume tomorrow morning at 10 o'clock.

(Whereupon, at 3:55 p.m. the hearing was recessed, to reconvene Thursday, March 12, 1959, at 10 a.m.)

STATEMENT OF HON. JAMES ROOSEVELT IN SUPPORT OF THE CIVIL RIGHTS ACT OF 1959 AND RELATED COMMENTS

Mr. Chairman, and members of the subcommittee, I appreciate the opportunity to appear before you to discuss my measure, H.R. 430, the Civil Rights Act of 1959, as well as to offer comment on other major civil rights proposals.

H.R. 430 is a companion measure to that introduced by the chairman of the House Committee on the Judiciary, the Honorable Emanuel Celler, and in the other body by Senators Douglas and Javits, who were joined by members of both parties. It is gratifying to see bipartisan support of legislation in the civil rights field. Guaranteeing these constitutional rights does not belong exclusively to one party. It is my profound hope that this Congress will assure to the American people that these rights do apply to every citizen regardless of race, creed, color, or national ancestry.

I think that we are all very much aware that the challenge in this fast-moving 20th century is to bring social progress up to scientific, technological and material progress. This has always been, down through the centuries, the real and overriding challenge to mankind. And the grave internal and external pressures that face this Nation today further emphasize the need for perfecting our democratic institutions through a recognition that social progress—and certainly implementation of civil rights is part and parcel of such progress—is an indigenous ingredient in democratic concepts and institutions.

Therefore, I resolutely affirm that Congress, in recognition of the challenge, must act affirmatively and expeditiously in the field of civil rights legislation.

Any discussion of my proposal would be lacking in depth and fairness if I only allude to its provisions without any reference to other major legislative proposals that have come before this Congress for its consideration and action. A discussion of the relative merit of various measures will, I believe, offer the best approach in determining the most effective civil rights legislation to implement the law of the land—the U.S. Constitution and the interpretation of it by the Supreme Court. I wish to emphasize that while I feel the measure which I am co-sponsoring offers the most extensive and meaningful approach to the problem of school integration, as well as the protection of civil rights in general, I also know that no one has a monopoly of ideas on how best to accomplish this implementation nor does any one person have all the answers. Collective thinking is essential for a clear solution.

For the purposes of discussion, I propose to discuss (1) my measure, H.R. 430, which is the same version of the legislation popularly called the Douglas-Javits-Celler bill; (2) the administration proposals, introduced in the other body as seven separate bills, but introduced in the House as one measure, H.R. 4457,

and (3) the Johnson proposal. Although Senator Johnson's bill has not been offered in the House, I think it will be useful and helpful to include reference to it in any full discussion of pending civil rights legislation. Parenthetically, may I say that for purposes of my presentation, and for clarification, I shall not refer to my given measure, H.R. 430, but rather to the Douglas-Javits-Celler bill.

In recent days, a very useful and careful summary comparison of the main civil rights bills has been prepared and distributed by the executive committee of the Leadership Conference on Civil Rights, comprised of 53 national religious, civic, interracial, labor, welfare, veterans, and fraternal organizations. It should be noted that the organizations involved have more than a fleeting or passing interest in civil rights matters; they all have one common bond: their sincere, studious, and enduring interest in and concern about the full implementation of the constitutional guarantees from which should flow first-class citizenship for all. Among the 53 organizations are the Unitarian Fellowship for Social Justice, the American Civil Liberties Union, the American Jewish Congress, the National Association for the Advancement of Colored People, the Improved Benevolent Order of Elks, the International Union of Electrical Workers, the United Automobile Workers, both AFL-CIO affiliates, and the American Council on Human Rights, to mention just a few.

I don't think anyone could properly quarrel with the contention that these groups have had a real and active interest in civil rights matters or that their summary analysis of the proposed bill was done in a perfunctory or superficial manner.

In offering the summary comparison, this group prefaced it by the following statement:

"The summary comparison would appear to justify the following conclusions:

"(1) The Douglas-Javits-Celler bill, providing support for the Supreme Court's desegregation decisions and technical and financial assistance to assist the process of school desegregation and including an improved version of the old part III stricken from the 1957 bill, is essential to the accomplishment of school desegregation within a reasonable period and to the maintenance of the equal protection of the laws in other fields; it is certainly the No. 1 civil rights bill. The Javits bill, S. 456 (see also Celler bill, H.R. 3148), which is not included in the summary comparison, also contains an improved version of the old part III of the 1957 bill, but the Javits bill does not contain the remainder of the Douglas-Javits-Celler bill. The old part III contained in both bills authorizes the Attorney General to bring injunction actions against those denying equal protection of the laws to anyone because of their race, color, religion, or national origin, and is the single most essential part of any civil rights legislation.

"(2) The administration school bills omit part III completely and contain an inadequate version of the remainder of the Douglas-Javits-Celler bill. Other administration bills, and particularly S. 957, authorizing inspection of voting records, make advances in the area of civil rights which deserve the support of civil rights organizations, to the extent that support for the Douglas-Javits-Celler bill is in no way reduced.

"(3) The Johnson bill, by failing to support the school desegregation decisions and by conciliation provisions that may result in civil rights being bargained away rather than enforced, appears to be a step backward. It seeks to relegate the assertion of rights to equal protection by citizens and defiance of the law by States to the status of a neighborhood quarrel to be resolved only by an ill-defined conciliation procedure. Its other provisions would seem to be better dealt with in the administration and other bills."

Mr. Chairman, may I say in reference to S. 957, mentioned in point 2 of the above-quoted statement, that this proposal is also sponsored by the distinguished chairman of the Committee on the Judiciary and is contained in the House bill, H.R. 4457, which has incorporated all seven administration proposals. I heartily concur the legislation covering the objectives set forth should be part of a comprehensive civil rights program.

A COMPARATIVE APPROACH TO CIVIL RIGHTS LEGISLATION

As stated in my earlier remarks, I shall direct my comments to the three proposals already referred to, the details of which are known to the committee members. Therefore, I think the most logical approach to this matter is to offer what I believe highlights the similarities and/or differences in as concrete and brief a fashion as possible, without perverting the intent.

In broad, general terms, I believe the bills can be discussed under the following headings:

1. Support of the Supreme Court decisions.
2. Federal technical and financial assistance to States.
3. Compliance and enforcement of Supreme Court decisions.
4. Suits by Government.
5. Obstruction of justice.
6. Voting records.
7. Civil Rights Commission.
8. Antibombing.
9. Children of military personnel.
10. Equal job opportunity.
11. Conciliation service.

Support of Supreme Court decisions

I think it is significant to point out that the Douglas-Javits-Celler measure is the only one of the three approaches under discussion that expressly endorses the principle of the Supreme Court's antisegregation decisions in schools, transportation, and recreation. It likewise recognizes the responsibility and authority of Congress to uphold these decisions.

While the administration proposal recognizes that the "Constitution as interpreted by the Supreme Court * * * is the supreme law of the land," it does not include the findings of the Douglas-Javits-Celler bill approving the high Court's decisions, nor does it pledge Congress to support those decisions "by all due and reasonable means."

The Johnson proposal does not refer to the Supreme Court's decisions. Indirect recognition is given by the feature of his proposal which notes there are constitutional requirements that give rise to "disagreements" which require conciliation of such disagreements forthcoming from legal decisions. The conciliation approach is, of course, less direct in assuring compliance and enforcement of the "law of the land."

Mr. Chairman, I believe that this distinctive feature of the Douglas-Javits-Celler measure may, in some respects, be the most important provision contained in any measure because it is an expression of philosophical endorsement of our national ideals; it is one way that Congress does not leave exclusively to the courts the implementation, as well as the proclamation, of the abiding American belief and conviction that all Americans are equal in the eyes of God which, translated into our constitutional concepts of democratic government, means every human being is entitled to equal protection of the laws.

Federal technical and financial assistance to States

The Douglas-Javits-Celler proposal authorizes the Secretary of Health, Education, and Welfare to render technical assistance to States and local communities seeking to comply with the high Court's antisegregation decisions.

In addition, the measure which I am supporting makes provision for grants to States and local governmental units for additional school facilities and additional teachers, to mention just two provisions among several. It also provides for grants to local communities, eliminating segregation, when the State threatens to cut off school payments.

To carry out the intent of these sections, the Douglas-Javits-Celler legislation calls for appropriations up to \$2½ million a year for a 5-year period for the technical assistance phases of the program; for the program of grants, appropriations up to \$40 million a year for a 5-year period.

The administration's program covers the above approaches but is a limited version of the Douglas-Javits-Celler approach both as to extent of the program and the amount of aid to be given. The estimated expenditure has been set at \$4½ million for 2 years.

Compliance and enforcement of the Supreme Court decisions

The Douglas-Javits-Celler bill sets up the procedure by which the Secretary would be authorized, when other methods fail, to assume responsibility for initiating the development of desegregation plans, with fullest possible local consultation and participation. When the Secretary certifies that all efforts to secure compliance by persuasion and by technical and financial assistance have failed, the Attorney General, as authorized in the bill, would file compliance action.

Neither the administration nor Johnson proposal has provisions in this matter.

Mr. Chairman, I wish to bring to the attention of the committee members that there is another important section of the Douglas-Javits-Celler measure which calls for the injunction procedure which I shall discuss shortly. However, at this point, I wish to bring to your attention that the measure has been criticized editorially in the Washington Post, February 2, 1959, as it pertains to the Federal desegregation plans and the injunction procedure if compliance fails. Indeed, the editorial opposes the injunction features as it applies in this matter and as it appears elsewhere in the bill for the purpose of ending denials of equal protection of the laws.

The editorial stated, and I quote only that portion of it concerned with the subject at hand:

"* * * It sweeps on to authorize the HEW to draw up desegregation plans for communities failing to act on their own initiative. Such plans could then be imposed on the reluctant communities through court injunctions. This sort of caprebaggery would produce more sectional hostility than desegregation. It looks in precisely the opposite direction from Senator Johnson's proposed conciliation agency.

"Nor do we think the time has come to seek enforcement of all civil rights through use of the injunction. Recent events in Virginia indicate that the barriers to desegregation are beginning to crumble. The processes of peaceful adjustment might be gravely upset by undue haste in the application of force from Washington. The wisdom of moving a step at a time in this delicate situation and of converting instead of bludgeoning has been too well demonstrated to be seriously challenged."

The Attorney General of the United States is taking a similar position regarding the injunction provisions, although it should be recalled that the administration program of 1957 included such authority for the Attorney General.

I think this is healthy in our discussion to have such criticism because it offers an opportunity to join the issue and to clarify misconception, confusion, and hasty conclusions. In a letter to the Washington Post, Senator Paul Douglas has done just that. He logically, factually, and legally challenges, and certainly weakens, the argument of those opposed to the HEW desegregation plan authorization and of those opposed to the injunction features of compliance in connection with such plans and with respect to the injunction features elsewhere in the bill which are aimed at ending the denial of equal protection of the laws in other fields, not just in the field of school integration.

Mr. Chairman, because of the importance of the points made by the distinguished Senator from Illinois, I wish to submit the full text of his letter of February 2, since it covers the issue at hand in a comprehensive and clear manner.

LETTER OF SENATOR PAUL H. DOUGLAS TO THE WASHINGTON POST

FEBRUARY 2, 1959.

EDITOR, LETTERS TO THE EDITOR COLUMN,
Washington Post and Times Herald,
Washington, D.C.

DEAR SIR: Reasoned analysis and widespread public discussion are prime essentials in arriving at a workable approach to desegregation and full compliance with the Constitution and decrees of the Supreme Court. Your editorial on "Aid, Not Carpetbagging" (Washington Post, Feb. 2, 1959), is a long step in this direction and is a welcome contrast to the more superficial treatment, vituperation or indifference with which such proposals have been met in the past.

To clarify the issues, however, and to correct some misunderstandings about our proposal, may I be permitted to make a few comments on your analysis.

First, I am proud of the civil rights bill which I introduced last week, and I am glad that it bears my name. But it also bears the names of 16 other Senators as cosponsors, including many of the best known and most thoughtful and reasonable advocates of a sane approach to progress in the field of human relations. A number of these Senators gave important help in the drafting of this measure, and it is therefore truly a joint product. A dozen or more House Members, including Judge Celler, chairman of the Judiciary Committee, have sponsored the same measure. The credit—or blame—for the proposal is therefore shared by these other Members as well.

We are naturally gratified that the Post recognizes the constructive character of that part of our bill which undergirds the desegregation decisions of the

Supreme Court by a statement of supporting congressional policy. Your support is also welcome for our rather comprehensive authorizations of technical assistance and financial aid through the Secretary of Health, Education, and Welfare to the States and localities seeking to work out their desegregation problems.

Your criticisms of the proposed authorization to HEW to draw up and issue desegregation plans as being too hasty and sweeping, however, seem to us to reflect an inadequate understanding of what is proposed.

Title IV of our bill which sets up this administrative action first requires HEW to make every effort to persuade the States and local districts to make a start toward eliminating segregation in public education, utilizing the aids and financial assistance previously referred to. It thus first emphasizes the procedure of conciliation, which you endorse, but specifies that it shall be conciliation with the aim of bringing compliance with the Constitution.

Secondly, in preparing such tentative plans the Secretary is required to seek the advice and assistance of public officials, private organizations and private citizens in the area and of any * * * advisory council.

In the third place, the proposal specifies that such tentative plans shall take into account the need of the particular area for time to make an orderly adjustment and transition from segregated to desegregated schools.

In the fourth place, if the plan thus formulated meets with the approval of the locality and is adopted by it, a beginning can be made, and the various other forms of assistance can be brought into play.

In the fifth place, however, if the tentative plan is not accepted, the Secretary must set up a public hearing upon the plan, and at this hearing, the local authorities, private organizations, and private citizens shall be permitted to participate. Only after all of these steps have been taken is the Secretary authorized to prepare and issue an approved plan for desegregation. The detailed requirements for local participation in our opinion make it clear that your rather captious characterization of "carpetbaggery" is wholly unwarranted.

But, finally, it is important to recall that these desegregation plans, if still resisted, cannot come into effect until the Attorney General files an injunction suit and the court, after listening to all of the evidence and hearing arguments, issues its decree in line with the underlying decisions of the Supreme Court requiring all deliberate speed. The trial court's determination is further subject to appeal and review right up to the Supreme Court.

The bill thus seeks to use the assistance and advice of executive and administrative agencies and the experience, recommendations, and criticisms of the local community in affirmatively formulating desegregation plans. In similar circumstances of bitter-end resistance under the present law, such plans have to be developed solely by the courts in injunction suits brought by the aggrieved persons in behalf of their children. But the proposed plans under our bill would in no case have any legal effect until they had gone through the judicial processes of court hearings and decision, with full right of review. The procedure is not unlike that now provided to secure compliance with NLRB recommendations.

Surely this accepted, reasonable, and deliberate procedure cannot fairly be characterized as a "force" plan, as your news reports have described it, or "bludgeoning" as you editorially refer to it.

In opposing our proposal to authorize the Attorney General to seek injunctions to end denials of equal protection of the laws, you cite with favor the recent events in Virginia. But what has brought about—at long last—the "crumbling" of the barriers of segregation and the "peaceful adjustment" which you herald there? Clearly, it is a series of court decisions, in cases initiated by individuals. The patient, thoroughly argued, long-drawn-out legal proceedings and decrees have been the path to progress in that State.

But what is the ultimate sanction under our bill? The answer is again court actions. These could, however, be initiated by the Attorney General. But in this case they must be preceded either (a) by the lengthy HEW procedure I have outlined above, or (b) by the signed complaint of individuals and a determination by the Attorney General that those individuals are unable to seek the effective legal protections for themselves. The injunctive procedure authorized in our bill is thus basically the same as the procedure under which progress is being made in Virginia, except that under carefully specified conditions the Attorney General may file the suit.

Why is it necessary that the Attorney General be empowered to initiate these procedures which can now be initiated only by individuals? This is necessary

because without it the weakest, the poorest, and those most subject to intimidation or coercion are required to fight their case with their own resources against all the legal talent, power, legislation, and economic resources which a State opposed to desegregation can throw into the breach. Because of the anti-barratry laws, the anti-NAACP laws, school placement laws, and the multitude of other barriers thrown up to resist the law of the land, and the scales of justice can only be evenly matched if these legal and economic burdens of enforcement are borne in part by the Federal Government, whose duty it is to enforce the law of the land. To require—as is now the case—that this burden be placed solely on the backs of the fathers and mothers of Negro children in areas which are overwhelmingly hostile to them is to apply that concept of justice made famous by Anatole France's remark that the law in its majestic equality forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread.

This injunction procedure is not unique or extreme, for, as I have said in the Senate, it is now so commonplace that it is provided in 39 other laws to bring compliance with various Federal statutes, including the voting rights bill of 1957. This procedure is necessarily coupled with all the usual protections of the exercise of the equity powers of the courts and subject to all of the normal appeals in the higher courts. It has been twice approved in school cases by overwhelming votes in the House of Representatives, once in 1956 by a vote of 279 to 126, and again in 1957, by a vote of 286 to 126 in favor of the so-called part III of the civil rights bills of 1956 and 1957.

If the Attorney General sought to move faster than the Supreme Court decisions provide, the Federal judge would deny or modify his request. Thus, there are adequate safeguards through the Federal district courts and judges—almost all of whom in southern areas are southern born—against “undue haste in the application of force from Washington.”

The inadequacy of the conciliation proposal by Senator Johnson, which you endorse, is that if the dominant forces of the community refuse to restore peaceful relations in accordance with the Constitution, the Federal Government would then lack the authority to initiate court cases to bring compliance. This failure could invite nullification and the ultimate breakdown of the Constitution.

The sponsors of our bill earnestly hope that the affirmative approaches which provide congressional backing for the Court's decrees, technical assistance, financial aid, etc., will be largely effective in getting the movement toward desegregation off dead center and demonstrating to the world that we intend to live by our principles of equal justice. But in the background, just as the historic decisions of the Court have been the firm rock upon which we have now begun to break away in both the North and the South from our previous discriminatory practices, so do we believe that the ultimate possibility of an appeal to the courts, initiated by the Attorney General, will be helpful in winning acceptance for these constitutional principles all along the line.

Sincerely yours,

PAUL H. DOUGLAS.

Suits by Government

The outstanding difference between the Douglas-Javits-Celler bill and the administration program is found in the matter of suits by the Federal Government. The difference is this: The provision contained in the Douglas-Javits-Celler measure represents an improved version of part III of the 1957 bill. The significance of this provision lies in the fact that the objective is for “preventive” rather than “punitive” action. It would authorize the Attorney General to seek preventive relief to protect persons being deprived of, or threatened with deprivation of, equal protection of the laws, if the persons whose rights are invaded are unable to seek legal relief because of a lack of finances, economic pressures, or fear of physical harm.

The Attorney General would also be authorized to seek preventive relief to assist public officials in guaranteeing equal protection of the laws by enjoining anyone hindering or attempting to hinder such officials or hindering, attempting, or conspiring to hinder the execution of any court order involving the equal protection of the laws.

Again, I bring your attention to the injunction features of the bill as explained and ably supported by Senator Douglas.

The Attorney General would also be authorized to intervene in private civil rights suits, as well as to initiate action.

This singular approach is important in comparing this proposal with the other two under discussion because neither makes such provisions in any manner.

Obstruction of justice

It is literally true that the Douglas-Javits-Celler bill does not have a provision contained in the administration proposal: that is, a provision making it a criminal offense to use force or threats to interfere with court orders in school desegregation cases. However, to accept this literally is also to be misled about the Douglas-Javits-Celler measure. The injunction procedure already discussed would come into play in such a situation, as well as in other civil rights areas. The proposal which I support thus emphasizes "preventive" rather than "punitive" action in the matter covered in the administration bill. Since injunctions can be enforced by contempt proceedings, I feel that such an approach is far more effective than the limited usefulness of criminal action.

Voting records

Both the administration and Johnson proposals, while differing in given respects, make provision for inspection of voting records.

I shall support an adequately written proposal and on the basis of the legislation at hand it is my belief that the administration bill offers a better approach in that there would be less delay in obtaining voting records where discrimination in voting has been charged, and it also contains the proviso that such records must be kept for 3 years; the Johnson proposal does not, thus not touching on the problem of the destruction of records. In addition, the latter proposal has a more limited application of the subpoena power to obtain such records.

Civil Rights Commission

Here again, the administration and Johnson proposals contain a feature not incorporated in the Douglas-Javits-Celler proposal: that is, the continuation of the Civil Rights Commission for 2 years in the administration bill, and until 60 days after January 31, 1961, in the Johnson measure.

I think it is important that the work of the Commission continue, but that it would be a grave error to claim that such a continuation makes additional legislation in the civil rights area unnecessary.

It is important to consider strengthening the Commission by authorizing it to investigate all denials of civil rights because of race, color, religion, or national origin.

Antibombing

While antibombing provisions are not contained in the Douglas-Javits-Celler bill, I think it should be noted that I and many supporters of this specific proposal have introduced separate legislation. The administration proposal and the Johnson measure both contain provisions in this matter.

Mr. Chairman, I shall not go into a comparison of how these measures differ, but I do wish to comment that I have introduced legislation which includes residential property in its provisions. This provision has not been incorporated in several of the measures that will be considered.

I am hopeful that effective antibombing legislation will be achieved in this Congress.

Children of military personnel

The administration proposal authorizes the Commissioner of Education to operate schools for children of members of the armed services where local schools are not operating as a result of defiance of the Supreme Court's decisions. It also provides that a school constructed in the future, built in whole or in part with Federal funds, may be taken over by the Federal Government for operation with the latter paying the State rent in line with the State's investment.

The proposal has, in my opinion, certain defects: First, if the goal in administration thinking is only to take care of children of Federal personnel, why limit it to the children of members of the armed services? Why not include other Federal employees? Second, the provision with respect to schools constructed under the impacted areas program would be of limited effect, since it would apply only to future construction; thus it would not apply to previously constructed schools. And, finally, the approach offers no provisions relating to desegregating impacted area schools.

I bring to the attention of the committee the fact that the Douglas-Javits-Celler measure has broader application in dealing with closed schools since Federal funds would be offered to local communities where the State has withdrawn school payments; in addition, the stronger provisions relating to school desegregation also make the approach more effective.

Equal job opportunity

The administration proposes that Congress create a Commission on Equal Job Opportunity Under Government Contracts, similar to the present Committee established by Executive order. The statutory duties and functions granted to the Commission would not differ greatly from those now exercised by the Committee, except that it would be able to make its own investigations and conduct hearings.

While I think this approach could be strengthened, for example, by providing such a Commission with subpoena power, I would hope that creation of such a Commission would be another factor in the further diminution of job discrimination by companies holding Government contracts.

My real concern, however, is that this is only a small part of the concept of equal job opportunity for all. I am proud to state that I have introduced legislation that would prohibit discrimination by companies and labor organizations because of race, color, creed, or national origin. While my proposal will not come before this committee, I merely want to apprise the members of my thinking in the matter.

Conciliation service

Reference has already been made to Senator Johnson's proposal to conciliate "disagreements" by establishing a Community Relations Service. I only wish to pose this question: Will this approach hamper enforcement?

Will conciliation, at the level it is proposed, be a necessary prerequisite of judicial action?

I wish to thank the chairman and members for their kind attention and to commend the Committee on the Judiciary for its desire to hold full and necessary hearings on civil rights legislation.

May I merely add that I am pleased to have been able to offer my comments and to indicate my support, for the reasons I pointed out, of the Civil Rights Act of 1959.

TESTIMONY OF CONGRESSMAN ROBERT N. C. NIX, FOURTH DISTRICT, PENNSYLVANIA,
ON CIVIL RIGHTS BILLS OF THE 86TH CONGRESS

Mr. Chairman and members of the subcommittee, I wish to thank you for the opportunity given me to testify on the question of civil rights legislation. I feel that the civil rights bills now under consideration by your committee hold the finest promise of social progress and positive advancement in the general welfare of the people of America that has ever been presented. And in the event that congressional action is taken, it may well be that American influence and prestige among the peoples of Africa, Asia, and the rest of the world, will reach a new peak. I feel that the distinguished chairman and members of the subcommittee, have indeed performed a valuable public service by having these open hearings.

At this time I should like to make an observation well known to the members of the committee; namely, that in all of the history of mankind, freedom has ever been the quest and the motivating influence that dominated life. Whether they were the nomads who roamed the wastelands of Europe or made their homes on the parched desert of the Sahara, they exhibited a fierce and untrammelled desire and a constant determination to be freemen. In fact, Mr. Chairman, wherever history has been written and recorded, the activities of mankind have shown an unquenchable desire for self-determination, equality, and the dignity of his person.

In the 400 years and over, of American Negro slavery, the same unquenchable desire for freedom, the same indestructible urge for equality and justice is evident. One does not have to look deeply to find this inherent quality as applicable to the American Negro. In fact, the titles to the songs that came from the hearts of the American Negro slave, such as "Swing Low, Sweet Chariot," "Crossing Over Jordan," "To The Promised Land," and a thousand others which came from the souls of the captive people, clearly emphasizes the fact that even human slavery, suppression, deprivations, insults, degradation, could never blot out the instinctive longing and constant desire for freedom.

Yes, Mr. Chairman and members of the committee, equality and freedom may be denied, may be repressed, may be limited, but no force can ever successfully stay the implacable urge. I believe that this committee will report out what is considered necessary, humane, and outstanding legislative sanction, thereby

allowing America to raise the torch of freedom, equality, and justice so that all men of every race, of every creed in this land and throughout the world will know that Americans are both dedicated to the proposition that all men are created equal and also practice the principles so boldly stated.

Specifically, I feel that the urgency for enactment of legislation such as is now under discussion is imperative and having considered the bills now before your committee, I, in conscience, must reject the bill offered by the President. I feel that it does not meet the issue in a satisfactory way. I am convinced that H.R. 430, H.R. 461, H.R. 913, and H.R. 3147, introduced by the distinguished chairman of the committee, Mr. Celler of New York; as well as H.R. 10928, introduced by the distinguished gentleman from Illinois, Mr. Dawson, in the 85th Congress, and H.R. 300, introduced by the same gentleman in the 86th Congress, are bills that meet the challenge of the moment. I am particularly in favor of the bills introduced by the gentleman from Illinois for the reason that his bill provides an affirmative program, that it draws its strength from the entire Constitution, that it does not rely solely upon the 14th amendment. I further favor the last mentioned bills for the reason that under the bill, the Secretary of Health, Education, and Welfare would be authorized to provide technical assistance, not only in connection with public education, but also in other fields where such assistance would aid in eliminating or preventing denial of constitutional rights based on race, color, religion, ancestry, or national origin. I further favor the last mentioned legislation for the reason that in title IV of that legislation, the Attorney General of the United States is authorized through civil actions to protect the civil rights of persons being deprived of them because of race, color, religion, ancestry, or national origin and to enjoin those who seek to prevent public officials from seeing that other citizens enjoy their constitutional rights, or who seek to prevent or hinder the performance of court orders protecting such civil rights and for the reason that the latter bill will also authorize the Attorney General of the United States to protect through court action, the constitutional rights of those who express opposition to the denial of constitutional rights of other persons.

It is my sincere hope that comprehensive and favorable legislation is reported by your committee and I again thank you for your courtesy in receiving my comments on these important measures.

COMMISSION ON CIVIL RIGHTS

WASHINGTON, D.C.

JOHN ALFRED HANNAH, CHAIRMAN

Born October 9, 1902, Grand Rapids, Mich.

Married; one daughter, three sons.

Education: Grand Rapids Junior College, 1919-21; University of Michigan, 1921-22; Michigan State University, 1922-23, B.S.

Honorary degrees: D. Agri., Michigan State University, 1941; LL. D., University of Michigan, 1944; H.H.D., University of the Ryukyus, 1952; L.H.D., University of Florida, 1953; D.Sci., Michigan College of Mining and Technology, 1953; LL. D., University of Rhode Island, 1954; LL.D., Central Michigan College of Education, 1955; LL. D., Albion College, 1957.

President of Michigan State University since July 1, 1941.

Assistant Secretary of Defense for Manpower and Personnel, February 1953 to July 1954 (on leave from Michigan State University).

Chairman, United States Section, Permanent Joint Board of Defense, Canada-United States, 1954.

President, American Association of Land Grant Colleges and State Universities, 1948-49.

Member: Board of Visitors for the Air Force Academy; Board of Consultants for the National War College; American Universities Field Staff, board of trustees; Association of the U.S. Army; Board of Visitors, Air University, 1955-56, chairman, 1957; Board of Visitors, U.S. Military Academy, 1955-58.

Chairman, Board of Directors, Federal Reserve Bank of Chicago, Detroit Branch.

Board of Directors, Michigan Bell Telephone Co.

President's Citizen Advisory Committee on the Fitness of American Youth.

Made survey of foreign aid programs in the Far East for the Senate Foreign Relations Committee, 1956.
Church: Episcopal.

ROBERT GERALD STOREY, VICE CHAIRMAN

Education: University of Texas and Southern Methodist University, B.A.; honorary degrees, LL. D., Texas Christian University, 1947; Laval University, 1953; Drake University, 1954.

Professional: Partner, Storey, Armstrong & Steger, Dallas, Tex.; dean, Southern Methodist University Law School; president, Southwestern Legal Foundation.

Public service: Assistant attorney general of Texas for criminal appeals, 1921-23; member, National Executive Committee, American Legion, 1921-22; Regent, University of Texas, 1924-30; Governor, Kiwanis Club, Texas-Oklahoma District, 1931; President of Park Board, City of Dallas, 1938-41; Executive Trial Counsel for United States, Nuremberg, trial of major axis war criminals, 1945-46; Member, Commission to Reorganize Executive Branch of United States Government (Hoover Commission), 1953-55; Adviser to Korean Government on judicial system and legal profession, 1954; State Department representative in Far East and Middle East to assist legal profession of friendly free nations (summer 1954-55); Member, Board of Foreign Scholarships (International Educational Exchange), 1956-.

Bar association activities: President, Dallas Bar Association, 1934; president, State Bar of Texas, 1948-49; president, American Bar Association, 1952-53; president, Inter-American Bar Association, 1954-56; member of council, International Bar Association, 1952.

Business: Director, Southwestern Bell Telephone Co.; chairman of board, Lakewood State Bank; director and general counsel, United Fidelity and Universal Life Insurance Cos. and Sabine Royalty Corp.

Military: 2d lieutenant, heavy artillery, World War I; colonel, Air Force, World War II.

Honors: Linz Award (1956) as outstanding civic leader of Dallas; American Bar Association Gold Medal (1956) for greatest contribution to advancement of jurisprudence.

Married; two sons.

Political affiliation, Democrat.

JOHN S. BATTLE, COMMISSIONER

Born New Bern, N.C., July 11, 1890.

Home and office: Charlottesville, Va.

Married.

Education: Wake Forest College; University of Virginia, LL. B.

Honorary degrees: LL. D., Hampden-Sydney College, University of Richmond, Wake Forest College, William and Mary College.

Member, House of Delegates, Virginia General Assembly, 1929.

State Senator, 1926-1949.

Governor of the State of Virginia, 1950-54.

Member, law firm of Perkins, Battle & Minor, 1954 to date.

Served with the U.S. Army in World War I.

Member, Phi Beta Kappa.

Politics: Democrat.

DOYLE ELAM CARLTON, COMMISSIONER

Born Wauchula, Fla., July 6, 1887.

Married: three children.

Education: University of Chicago, A.B., 1910; Columbia University, LL. B., 1912; admitted to Florida Bar, 1912.

Member, Florida State Senate, 1917-19.

Governor of the State of Florida, 1929-33.

Practicing attorney, Tampa, Fla., 1933 to present.

Religious affiliation: Baptist.

Politics: Democrat.

Residence: 2525 Bayshore Boulevard, Tampa, Fla.

Office: First National Bank Building, Tampa.

REV. THEODORE M. HESBURGH, C.S.C., COMMISSIONER

Born May 25, 1917, Syracuse, N.Y.

Education: University of Notre Dame, 1934-37; Gregorian University, Ph. B., 1940; Holy Cross College, 1940-43; Catholic University of America, 1945.

Honorary degrees: Bradley University, LeMoyné College, Catholic University of Santiago, Chile.

Entered Order of Congregation of the Holy Cross, 1934; ordained priest, University of Notre Dame, 1943; chaplain, National Training School for Boys, Washington, D.C., 1943-44; veterans chaplain, Notre Dame, 1945-47; assistant professor of religion and head of department, Notre Dame, 1948-49; executive vice president, 1949-52, and president of the University of Notre Dame since 1952.

Member: Scholarship Board, Ford Motor Co. Fund; Hoover Commission; General Motors Scholarship Board; Rockefeller Bros. Fund, special student project board; Board of Visitors, U.S. Naval Academy, president, 1956; National Science Board; Freedoms Foundation Board and Executive Committee; Nutrition Foundation Board; Foundation for Religious Action in the Social and Civic Order; Young Presidents Organization; Institute of International Education Board, president; Association of American Colleges; Catholic Theological Society of America; National Conference on Family Life; Policy Advisory Board, Argonne National Laboratory; Midwest Universities Research Association; Institute of International Education Board, vice president, 1956; National Woodrow Wilson Fellowship Corporation Board.

Permanent Vatican delegate to the International Atomic Energy Agency.

Auxiliary chaplain, U.S. Army, World War II.

Author: "Theology of Catholic Action," 1945; "God and the World of Man," 1950; "Patterns for Educational Growth," 1958.

Home: Corby Hall, Notre Dame, Ind.

GORDAN MACLEAN TIFFANY, STAFF DIRECTOR, COMMISSION ON CIVIL RIGHTS

Born December 13, 1912, Port Chester, N.Y.; married (1940) to E. Ellen Auchincloss; children: William Fox Tiffany, Jean Gordon Tiffany; father, Henry Dyer Tiffany, died 1917; mother, Eleanor Gordon Tiffany, died 1940.

Education: Public and private grade schools in Greenwich, Conn.; preparatory, St. Paul's School, Concord, N.H.; college, Yale College, B.A. 1935; law, Columbia Law School, LL. B. 1942.

Business experience: New York Herald Tribune, 1935-39.

Law experience: Admitted to practice, New York, 1943; New Hampshire Supreme Court, 1946; Federal district, New Hampshire, 1947; U.S. Supreme Court, 1952; U.S. Court of Appeals, First Circuit, 1953; U.S. Court of Military Appeals; ICC, various Federal agencies; 1942, private practice; 1943, Satterlee & Warfield, 40 Wall Street, New York City; 1946, law clerk, office of attorney general, New Hampshire; 1946-49, assistant attorney general, New Hampshire; 1949-50, private practice, also legislative counsel for Governor Adams; 1950-53, attorney general of New Hampshire; 1953 to June 9, 1958, private practice.

Legislative experience (in addition to representations in private practice): Member constitutional convention, 1956; member, General Court of New Hampshire, 1957; served on judiciary committee, committee on interstate cooperation, committee on elections, various interim committees; drafted among other matters the New Hampshire Reorganization Act, and served as counsel to the commission on revision of statutes (Revised Statutes Annotated, 1955 (6 vols.))

Service record: 1943-45, inclusive, U.S. Naval Reserve (lieutenant, senior grade), active service Atlantic, South Atlantic, Pacific, Southwest Pacific, and Philippine Defense Ribbons. ASW work, line officer.

Affiliations: Religion, Episcopal; political, Republican; education and civic: Trustee, St. Mary's-in-the-Mountains; member, Yale Alumni Board; charter member and president, Yale Club of New Hampshire; member, Yale Club of New York; vice president and director, New Hampshire Social Welfare Council; chairman, Concord Community Chest; chairman, New Hampshire Finance Drive (Boy Scouts of America); founder St. Nicholas Club, New Hampshire (Christmas gifts for mentally retarded).

Social affiliations: Member, Capitol Hill Club, Washington, D.C.; University Club, Boston; Country Club of Darien, Conn.; Newcomer Society; SAR; Rotary.

Particular interests: Intergovernmental relations—Member of Council of State Governments since 1950 and on the board of managers since 1951; member at

large on the board since 1952; participated in most conferences, drafting and considering many compacts and proposed legislation in field of civil defense, education, conservation, etc.; civil rights, arguments before U.S. Supreme Court and State courts and agencies; appellate work, principally briefing and arguing numerous cases before New Hampshire Supreme Court; trial work in New York and New Hampshire, all county courts, probate courts, and several municipal courts.

GEORGE MARION JOINSON

Born May 22, 1900, Albuquerque, N. Mex.; married, one son.

Education: University of California at Berkeley, B.A., LL. B., J.S.D.

Director, Office of Laws, Plans and Research, Commission on Civil Rights, since May 1958; dean, Howard University Law School, 1946-58; professor of law, Howard University, 1945-46; assistant executive secretary, President's Committee on Fair Employment Practices, 1941-42; deputy chairman and acting general counsel, President's Committee on Fair Employment Practice, 1943-45; assistant professor of law, Howard University, 1940-41; junior assistant tax counsel and senior assistant tax counsel, California State Board of Equalization, 1933-40; private law practice, Berkeley, Calif., 1930-33.

Member: California Bar; Bar of the Supreme Court of the United States; American Bar Association; National Bar Association; Association of American Law Schools (Advisory Committee, Journal of Legal Education, 1955; Committee on Pre-Legal Education, 1954-55; Committee on Legal Education and the National Defense, 1951-53, chairman, 1953; Committee on Lawyers in Federal Service, 1948; Committee on Legal Aid, 1958); American Law Institute (honorary); National Education Association; American Association of University Professors; National Legal Committee of the National Association for the Advancement of Colored People; District of Columbia Legal Aid Society, board of directors; Advisory Committee, Juvenile Court of the District of Columbia.

CIVIL RIGHTS

THURSDAY, MARCH 12, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:10 a.m., in room 346, Old House Office Building, Hon. Peter W. Rodino presiding.

Present: Representatives Rodino, Rogers (Colorado), Holtzman, Donohue, Toll, McCulloch, and Miller.

Also present: William R. Foley, general counsel, and Richard C. Peet, associate counsel.

Mr. RODINO. The committee will come to order.

We will resume our hearings on civil rights. Our first witness this morning, whom the committee is glad to welcome, is the Honorable Arthur S. Flemming, Secretary of the Department of Health, Education, and Welfare.

Mr. Secretary, we appreciate your coming here, and you may proceed, but please identify the people at your side.

STATEMENT OF HON. ARTHUR S. FLEMMING, SECRETARY, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ACCOMPANIED BY ELLIOT L. RICHARDSON, ASSISTANT SECRETARY, AND REGINALD CONLEY, ASSISTANT GENERAL COUNSEL, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Secretary FLEMMING. Thank you, Mr. Chairman.

I am very happy to have the opportunity of being here. I am accompanied by the Assistant Secretary of the Department of Health, Education, and Welfare, Mr. Richardson, on my left; and our Assistant General Counsel, Mr. Conley.

I appreciate very much this opportunity to testify on the role of the Department of Health, Education, and Welfare in the legislative program that was recommended by the President of the United States in his civil rights message of February 5. The President's seven-point program is embodied in H.R. 4457, of which titles VI and VII contain the proposals which concern this Department.

The enactment of titles VI and VII would achieve two specific objectives in the field of public education which would accomplish sound and reasonable progress toward the great national goal of full equality under law for all citizens. As outlined by the President, these objectives are entirely consistent with this Department's fundamental responsibility for promoting better educational opportunities for all children. They are—

1. To enable the Federal Government to provide positive help to States and local agencies, upon request, in making adjustments in their public school systems which may be required by the school desegregation decisions of the Federal courts.

2. To enable the Federal Government to provide education for all children of military personnel, whether or not they live on Federal property, when public education is otherwise denied them due to school closings resulting from State and local attempts to avoid compliance with Federal court decisions or decrees requiring desegregation.

Title VII would provide Federal financial and technical assistance to accomplish the first objective. Title VI would amend Public Laws 815 and 874, 81st Congress, to accomplish the second. Both titles are realistically designed to permit the Federal Government to meet its obligations in these areas, and to do so in a constructive manner, without coercive intent or punitive action. I would like to discuss each of them briefly.

A. GRANTS AND TECHNICAL ASSISTANCE

The decisions of the Supreme Court holding racial segregation in the public schools to be unconstitutional established the task of public school desegregation as the responsibility of those States which previously required or permitted racial segregation in their school systems. The States and localities had been operating their schools in reliance upon earlier Supreme Court rulings that public segregation was lawful, provided that separate but equal facilities were maintained.

Now, in making the transition to a desegregated public school system in accordance with constitutional requirements, these States and their communities may, in varying degrees, experience temporary but real financial and educational burdens. Significant problems of organization, transportation, curriculum planning, and school community relationships may arise. Intensive efforts may be required at the State and local levels to assure that the transition is made in a sound and orderly manner.

This Department, as the Federal agency charged with national responsibilities in the field of education, has a special concern with such problems. We believe that citizens and leaders dealing with them should be able to obtain assistance from the Federal Government in developing programs of transition and in meeting the problems arising from the transition. The legislation recommended by the President in title VII would authorize this kind of affirmative help when it is requested.

Under the bill, the Federal Government would be authorized to make grants-in-aid to share half of the cost of additional and special educational services which desegregation programs may require. For example, State departments of education will undoubtedly be called upon by their school districts to provide leadership help in the form of State-wide studies, professional consultative and advisory services, local and regional conferences and workshops, and the development of curriculum materials.

Again, a local school system initiating a program of desegregation may in many cases find it desirable to employ staff members with special responsibility for developing the program, creating com-

munity understanding of its aims and approaches, and working with the parents and children affected. These staff members might include an assistant to the superintendent of schools, perhaps visiting teachers, and specialists in various fields—specialists who would deal with such matters as statistics and their interpretation, counselling and guidance, human relations, in-service training of teachers, and school social work. The actual pattern of organization and services in an individual school district would, of course, depend on its particular needs.

Under title VII, half of the cost of such additional services assumed by the States and local agencies would be met by Federal grants, provided the services are directly occasioned by the putting into effect of desegregation programs. Thus, by sharing the cost of their efforts to make the necessary adjustments in their school systems, the Federal Government would be helping States and local educational agencies to meet their constitutional obligations.

Further Federal aid would be provided, at the request of the States or local agencies, in the form of technical assistance, consultation, and advice in the development of desegregation programs. In addition responsibility would be placed on the Commissioner of Education to initiate or participate in conferences called to help resolve educational problems arising as a result of efforts to desegregate. The Commissioner would also be authorized to collect and disseminate information on the progress of public school desegregation.

To receive funds under the bill, a State would submit to the Commissioner a plan setting forth its methods and criteria for approving applications of local educational agencies, and describing the State-level activities for which the State would use grants. I would like to underline the fact that the bill merely requires that this information be set forth in the State plan and does not authorize the Commissioner of Education, in reviewing the State plan, to pass judgment on the desegregation plans of the communities. If the State plan is a plan for providing financial assistance to communities that are moving in the direction of desegregation, it will be approved. In this manner there will be no interference with the roll of U.S. district courts in passing on desegregation plans.

If in any year an approvable State plan is not filed, the Commissioner could, if the State provides for local option or otherwise indicates its consent, make grants directly to local educational agencies in the State upon their request.

Federal assistance provided by title VII would, of course, be of a temporary nature. The title would authorize appropriations for only the next 2 fiscal years, and in January 1961, at the midpoint of the second year, the Secretary would be required to report to the Congress his recommendations as to the extension or modification of the legislation.

Last week the Civil Rights Commission held a series of hearings in Nashville, Tenn., on desegregation in the field of education. I asked the Honorable Elliot L. Richardson, Assistant Secretary of the Department of Health, Education, and Welfare, to represent me at these hearings. In a report to me Secretary Richardson has set forth conclusions that I feel underline in a very emphatic manner the wisdom

of the approach reflected in title VII of H.R. 4457. Secretary Richardson's conclusions follow:

1. Although the decisions of the Supreme Court have been the decisive precipitating factor in bringing about desegregation, the rate of progress in accomplishing it and the degree of its acceptance depend not only upon court orders but upon community attitudes. For future progress—real progress—we must look to increasing recognition that equal educational opportunity for all is not alone a constitutional requirement, but a reflection of the finest traditions of our free society.

2. Just as communities differ in their geographical and population characteristics and in their historical background, so also do their responses to the problems of desegregation differ. The desegregation programs described by the school officials who testified were striking in their variety. This fact, to my mind, underlines the wisdom of the Supreme Court's provision for administration of its decree by district judges familiar with the communities to which their orders apply, and able to gage the rates of "deliberate speed" appropriate to those communities.

3. The problems arising out of the process of desegregation are problems created by the requirements of the Federal Constitution. They affect the States concerned by virtue of their belonging to the Federal union governed by that Constitution. There was for this reason—I think justly—considerable feeling that the Federal Government should play an affirmative part in giving leadership to the solution of these problems.

4. The officials charged with responsibility for public education are above all concerned with doing everything in their power to see that sound educational programs are maintained for all children, both white and colored, without interruption or harassment from external sources. The officials who participated in the conference have devoted themselves with energy, wisdom, and dedication to these ends. The conference was the first full opportunity they have had to share experiences and exchange views on the problems of desegregation. They felt, I am convinced, that this had been a worthwhile experience and that they would profit from further opportunities for this kind of sharing and exchange.

Next I would like to turn briefly to the proposed amendments to Public Laws 815 and 874.

Title VI of H.R. 4457 recognizes that the Federal Government has a unique responsibility with respect to the education of children of military personnel. Members of the Armed Forces serve in communities under orders, and public education is normally available to their children only as it is provided in the communities in which they live.

During the recent closure of certain secondary schools in Norfolk, Va., about 10,000 children were deprived of free public education for a full semester. Of the 10,000 children affected, about 2,500 were school-age children with a parent on active duty in the Armed Forces, assigned to military installations in the Norfolk area. Of the 2,500 such children, only about 350 lived on Federal military posts. And these 350 children, under existing Federal law, would have been the only ones for which the Federal Government could have provided schooling if the public schools had remained closed.

The proposed legislation, if it had been in effect, would have permitted the Government to provide education for the other 2,150 children of military personnel who live off Federal property.

I am informed there are at the present time six States in which no integration has taken place where the laws either require or permit the closing of public schools that are under orders of a Federal court to accept one or more Negro children for enrollment in previously all-white schools. These States are Alabama, Florida, Georgia, Louisiana, Mississippi, and South Carolina.

If all the public schools in these States were closed by State or local authorities, which is of course unlikely, it is estimated, on the basis of

data supplied by the Department of Defense, that about 70,000 school-age children of active-duty military personnel might be affected.

Potentially, then, the proposed legislation may be regarded as insurance for some 70,000 children of military personnel against the denial of educational opportunity in such circumstances.

In addition, the legislation would authorize the Commissioner to acquire possession of any school building constructed with the aid of Federal funds after enactment of the proposed amendments, when the local educational agency which owns the building is no longer using it for free public education and the Commissioner needs the building to provide education to children of military personnel or to other children who reside on Federal property. While the school remains in Federal possession, the Commissioner would pay the local district a rental fee proportionate to its share in the cost of constructing the building.

Title VI of the administration bill provides a practical and promptly usable method, on a standby basis, for meeting a serious problem if it arises. It gives assurance that military personnel ordered to duty in certain States will not be placed in the impossible situation of having to undertake emergency and makeshift arrangements for the education of their children, with the Federal Government powerless to assist.

In summary, titles VI and VII of H.R. 4457 would enable this Department to meet responsibilities which we believe to be appropriate for Federal action: to offer assistance to States and localities which are desegregating their school systems, and to provide education for the children of military personnel when public schools are closed to avoid compliance with court desegregation orders.

These proposals would in no way infringe upon the primary responsibility of the States to desegregate their school systems in accordance with constitutional requirements, nor would they infringe upon the jurisdiction of the Federal courts over any determination as to the manner in which the States or local school systems are to carry out this constitutional responsibility. Moreover, the proposals would in no way serve to weaken State and local responsibility for the administration of public education.

As the President has pointed out, progress toward the goal of full equality under law for all people depends "not on laws alone but on building a better understanding." With this in view, our proposals have been so designed as to encourage leadership on the part of those who recognize that equality of educational opportunity is not only a constitutional requirement but a right which has evolved naturally out of our free democratic tradition. We believe, therefore, that both proposals have properly been included as integral parts of the President's program for continued progress toward the greater realization of the civil rights of all our people.

Mr. RODINO. Thank you very much, Mr. Flemming. Mr. Rogers.

Mr. ROGERS. Mr. Secretary, I understand that under title VII, the grants to assist State and local education agencies to effectuate desegregation, are based upon a formula whereby, depending upon the amount of appropriation given in relation to the application made, then the fund is distributed in relation to the number of pupils. Is that the objective?

Secretary FLEMMING. Yes, Congressman Rogers. The appropriate title or section there is section 703, and it states that—

The Commissioner of Education shall for each fiscal year allot to each State from the sums appropriated pursuant to section 702 for such year, an amount which bears the same ratio to such sums, or to such larger sums as may be specified in the act making the appropriation as the number of students who attend segregated public schools in such State during the school year 1953-54 bears to the number of students who attend such schools during such year in all the States.

Mr. ROGERS. That would mean that every State that has desegregated schools would have the opportunity to make application and receive their portion of the funds appropriated by the Congress; is that correct?

Secretary FLEMMING. It would mean that every State where the schools were segregated, either by law or where the law permitted segregation prior to the Supreme Court decision, would have the opportunity of participating in the program.

Mr. ROGERS. Any State prior to May 17, 1954, that had relied upon the separate but equal facilities theory.

Secretary FLEMMING. That is right.

Mr. ROGERS. Would be entitled to secure funds of that nature?

Secretary FLEMMING. That is correct.

Mr. ROGERS. You take the State of Oklahoma as an example, I think prior to 1954—they had segregated schools, based upon the 1896 Supreme Court decision.

Secretary FLEMMING. That is right.

Mr. ROGERS. Now they have since desegregated, and have desegregated schools.

Now, Oklahoma would have the right, then, to come in and make an application?

Secretary FLEMMING. That is correct.

Mr. ROGERS. But the State of Kansas, just to the north, that never had segregated schools, would not be eligible to receive moneys, is that correct?

Secretary FLEMMING. That is correct, Mr. Congressman.

Mr. ROGERS. If the State failed to submit a plan and file an application for its money, are you authorized to make any allocations to that particular State, if they fail to make the application?

Secretary FLEMMING. The appropriate section of the proposed law dealing with that problem is section 705. It reads this way:

If the Commissioner determines with respect to any State for which an allotment has been made—

under this previous section that you and I have just been talking about—

that such State will not for such year submit and have approved a State plan under section 704, and either (a) that such State has consented to the making of applications by local educational agencies pursuant to this section, or (b) or such State has indicated that it assumes no responsibility with respect to the desegregation of schools, the Commissioner shall, notwithstanding the provision of section 703(b), pay to local educational agencies with applications approved by him under this section, one-half of the expenditures of such agency during such year.

In other words, if the State gives its consent to the local communities making a direct application to the Federal Government, or if the State, for example, had adopted a local option plan, thus placing

the responsibility for desegregation in the hands of the local communities, and then if that State failed to file a plan with the Federal Government, the local communities concerned could make application and the Commissioner would be authorized to act on those applications.

Mr. ROGERS. Well, now, we can assume that the several States which you outlined that have laws that would dissolve a school district immediately upon a court order, like Alabama, Mississippi, and so forth, well now, if those States failed to submit a plan, no allocation of money would be made to that State, isn't that correct, except under this provision?

Secretary FLEMMING. That is correct.

The communities in that State would not receive any help unless they came in under the provision that you and I have just been discussing.

Mr. ROGERS. If one community made the application without State approval, wouldn't you then be authorized to allocate money to them?

Secretary FLEMMING. Only if the State had given consent to local communities making a direct application, or only if the State had adopted a local option plan, thus placing the whole responsibility for desegregation on the communities.

Mr. ROGERS. In other words, there has to be some action by the State before you can—the State must approve what the local group does or the State must have some kind of a plan before you are authorized to make this money available to desegregate schools?

Secretary FLEMMING. That is right. The State must have a plan, or it must have given its consent to local communities filing a plan, or it must have adopted a local option plan which places the whole responsibility in the communities if money is to go into that State.

Mr. ROGERS. In face of the resistance made by the seven States outlined in your statement, do you envision that any of those States would have any plan to desegregate their schools?

Secretary FLEMMING. Well, of course, Mr. Congressman, as of the present moment I am sure that if this were a law that there are certain States that would not file a plan, that would not give consent to their local communities asking for assistance, and that would not resort to local option to handle this matter.

But, as we all appreciate, this picture has been changing from week to week, and from month to month, and we feel that the Federal Government should put itself in a position where it says to those States, "If you desire assistance along this particular line under the conditions set forth in the bill, you can receive that assistance." But we do feel that the assistance should not be made available unless conditions that are outlined in the bill that has been submitted have been met.

Mr. RODINO. Mr. Secretary, at that point, you mentioned that conditions have been changing. Do you mean there is improvement in the situation, that type of improvement which would not necessitate any action?

Secretary FLEMMING. No, Mr. Chairman. We are recommending action, and I believe that the action that we are recommending should be taken. But, as I look at the picture now, as contrasted with the situation in the fall of this year, I think some progress has been made, not as rapid progress as I would like to see made, but I can't help but admit the fact that some progress has been made.

That is my only point, I mean, that I feel that the basic objective that we all have in mind is so sound that step by step public opinion is rallying back of support for the attainment of that objective.

I think that is why we have made some progress, and I think that is why we will continue to make some progress.

Mr. RODINO. Of course, as you indicate, Mr. Secretary, where the local situations are such that the laws in that particular State are intended to maintain segregation there is just nothing; it seems that our hands are going to be tied under these provisions because we are not going to step in with any Federal assistance.

Secretary FLEMMING. Well, I think, Mr. Chairman, that the thing we have to keep in mind here is that the philosophy lying back of our proposal is the philosophy of the Federal Government affirmatively stating to the States that we are prepared to give them assistance.

We do not feel that—let me put it affirmatively—I think that if assistance is given under those conditions on requests, either from the States or under certain conditions from the local communities, it will then be assistance that will further the objective that all of us want to achieve.

Mr. RODINO. I agree with you to a point, except that I do know that there are any number of laws that are presently on the books now, State laws, which tend to maintain segregation, and especially in the school areas.

Now, it seems that this way we are not going to meet the problem.

Secretary FLEMMING. Mr. Chairman, could I respond to that in this way, I mean, this is really the basic philosophy underlying our proposal. As we see it, the Supreme Court has placed upon the Federal district courts the responsibility for determining what constitutes "all deliberate speed," and what constitutes "good faith compliance."

Frankly, we are opposed to any action that would shift this responsibility to the executive branch.

We believe that our role should be the role of assisting States and communities in their efforts to comply with court decisions. And that is the approach of this bill. What we are saying here is that when a community or State is moving in the direction of compliance with court decisions, we feel that the Federal Government affirmatively should assume the responsibility of assisting them in their efforts to comply.

Mr. ROGERS. But if the State or the community does not move in that direction, then there is no intent to aid or assist in seeing that schools are kept open, is that the position of the Department? As I take it from your statement, that is the position.

We have had witnesses before this committee who, in effect, testified that where the schools were closed and people denied education because of desegregation, that the Federal Government should put up money, go down there and see that those schools are run, even to the point of paying the teachers and running them.

Have you any comment on that kind of a plan, or has that been discussed in your Department?

Secretary FLEMMING. Congressmen, under the Supreme Court decision, the question of the type of legal action or other action that should be taken under the kind of circumstance that you describe, is a

matter which involves the courts, and action upon the part of the Federal district courts, and we believe that it should be kept within that particular realm.

After all, if I might complete my thought there, that is the way in which the situation was handled in the State of Virginia. There were both State court actions and Federal court actions involved, and we all know the results of the Federal and State court actions.

As I have indicated, I think that it is clear that the Supreme Court has placed upon the Federal district courts the responsibility for determining what constitutes compliance with the Supreme Court decision. I think that responsibility should continue to be vested in the courts. I don't think that it should be shifted under any circumstances to the executive branch. I think the executive branch should keep itself in a position where it discharges the role of assisting the States and the communities in their efforts to comply with court decisions.

Now, the only place where I feel, and as these proposals indicate, the Federal Government has a responsibility to step in and provide school facilities is for the children of military personnel, whether they live on or off the base. I think we do have that obligation, because those people are there under orders, and I think we should take direct action in that respect.

Mr. HOLTZMAN. Will the gentleman yield to me at that point?

Mr. ROGERS. Yes.

Mr. HOLTZMAN. Reading from your statement and one of Secretary Richardson's conclusions, or conclusion No. 3, you say in the last sentence:

* * * I think justly—considerable feeling that the Federal Government should play an affirmative part in giving leadership to the solution of these problems.

Now, I am sure that you feel that way, Mr. Secretary. Why do you then speak of the shifting of responsibility to the executive? Do you feel that the executive has a prime responsibility in every facet of this problem?

Secretary FLEMMING. The type of affirmative leadership that we are talking about here is the type of leadership that is reflected in title VII of this proposed bill.

I certainly feel that the executive branch has the responsibility of focusing attention on the problems, for example, that arise out of failure on the part of communities to comply with Supreme Court—with Federal court decisions.

As you may or may not know, I tried to do that in connection with the closing of the schools. I felt that that was an indefensible situation, and so stated publicly on a number of occasions. I tried to point up what it meant to the children in those communities that would be denied access to adequate school facilities.

There isn't any doubt in my mind but that we have an obligation to continue to do that. But I still feel that we have got to keep in mind the division of responsibility between the various branches of our Government. The Supreme Court in making—I mean, in rendering—its decision, has placed responsibility for determining what constitutes compliance or what constitutes deliberate speed, what constitutes good faith, on the local courts. I feel it should rest there, and I am convinced of the fact in my own mind on the basis of what we

have observed up to the present time that as the courts make these determinations, there will be programs initiated, designed to comply with these determinations.

Now, at that point, I think that the Federal Government should step in and give assistance to the States and the communities, and I think we should do it in an affirmative way, not in a grudging way but in an affirmative manner.

Mr. HOLTZMAN. Mr. Secretary, now the administration proposal is that when a request is made —

Secretary FLEMMING. That is right.

Mr. HOLTZMAN. All right. The problem then arises if no request is made, isn't that so, sir, therein lies the problem; isn't that so?

Secretary FLEMMING. I think that it should—I don't think that we should go beyond that because, after all, we are assuming now a situation where there has been a court decision, and where steps are being taken to comply with that decision. I think it should be left to the State or the communities to determine whether or not they need assistance from us.

Frankly, I think that if we make provision for such assistance as time goes on they will increasingly turn to us and ask for assistance.

Mr. McCULLOCH. Will the gentleman yield?

Mr. HOLTZMAN. Just one question, if I may:

Suppose you have an intransigent State —

Secretary FLEMMING. Pardon me?

Mr. HOLTZMAN. Suppose you have an intransigent State, a State that is dedicated to oppose integration with deliberate speed. Now, don't you think that the Federal Government then, the executive branch, has a prime responsibility to do more than just provide the assistance?

Secretary FLEMMING. Well, Mr. Congressman, I think that the type of situation that you are describing is a situation that under the Supreme Court decision must be handled by the courts. It is when it gets beyond that particular point that I feel that the Federal Government, I mean the executive branch, rather, should be in a position where it can step in and render assistance.

Mr. HOLTZMAN. I yield to Mr. McCulloch.

Mr. ROBINO. Mr. McCulloch.

Mr. McCULLOCH. Is it the Secretary's belief that fundamental responsibility for a school system belongs to the State, or is it the Secretary's opinion that it belongs to the National Government?

Secretary FLEMMING. It is the former, Mr. Congressman, and I think that our proposal reflects our convictions along that line.

Mr. McCULLOCH. And that was the basis for drawing this part of the bill as it is drawn?

Secretary FLEMMING. That is correct.

Mr. McCULLOCH. Is there any feeling in the mind of the Secretary that there is possibly no authority on the part of the Federal Government to plan and to finance and to operate a school system in the sovereign States?

Secretary FLEMMING. Well, Mr. Congressman, I suppose the Attorney General is the person who should respond to a question of that nature. But I think that it would raise some constitutional issues. I say that without passing judgment, because I don't have the competence to do so on how those constitutional issues would be resolved.

But I go beyond that to the first point that you made. I feel that, in dealing with this and other problems, we must recognize the fact that the basic responsibility for the operation of our educational system is vested, and in my judgment should continue to be vested, in the States. That is one of the things we have to keep in mind on this question of the requests for assistance either on the part of the State or the local school district. After all, the local school district is simply a part of the State government and as far as, I think, all of the States are concerned, they could abolish local school districts if they so desired. I mean, they determine how the educational program is going to be handled within the State. So, essentially, we are dealing with the State, and that is why we have specified that funds would not be made available unless the State requested it, or unless the State had taken the initiative to put the communities in a position where they could request it directly.

Mr. McCULLOCH. As a matter of fact, the approach in this bill is substantially in accordance with the declaration of the ordinance of 1787, isn't it, that schools and means of education shall forever be encouraged?

Secretary FLEMMING. That is right.

Mr. McCULLOUGH. But it didn't say that they would be planned—the schools would be planned and carried on by the Federal Government.

Secretary FLEMMING. I concur, Congressman McCulloch, with your statement.

Mr. McCULLOCH. As the sponsor of this bill, I would like the record to show that if it were the disposition to put the Federal Government into the planning and direct financing and the operation of the schools at the local level in the South or elsewhere in America, I would not have been the sponsor of this bill.

Mr. RODINO. But to carry it further, Mr. Secretary—then, if the situation were such that we were to wait for action on the part of the State government, and recognizing that some are not going to move, and are not moving, and are not going to move for a time, then it is your position that the Federal Government will not in anywise interfere regarding the question of education?

Secretary FLEMMING. Mr. Chairman, I have tried to make clear my feeling that the question of what constitutes deliberate speed, all deliberate speed, what constitutes good faith compliance is, as I understand it, a matter that under the Supreme Court decision has been left to the courts, and in my judgment it should continue to be left at that particular point.

Now, I am sure that you discussed with the Attorney General yesterday the question of how matters should be placed before the courts, and that is not within my competence, I wouldn't want to get into that area at all, except to say that I, of course, have discussed that aspect of it with the Attorney General. I am in complete agreement with the position that he has taken on that matter.

But, as I see it, as a representative of the executive branch now, the thing that we want to do is to put ourselves in a position where we can give affirmative help and assistance to school districts that have started to move in this particular direction.

Now, how you start them to move in that particular direction is a matter that under the Supreme Court decision is to be presented to

the local district courts, and I feel that that is where that phase of the total problem should be left, and it should not come over to the executive side.

Mr. RODINO. Mr. Rogers.

Mr. ROGERS. Mr. Secretary, you emphasize the compliance with Federal court orders, and the willingness of your Department to co-operate in that regard. Isn't that the theme of your statement?

Secretary FLEMMING. My theme is that once the local communities within a State have begun to move in this particular direction, we think that the Federal Government should—the executive branch should recognize the fact that they will be presented with some rather unusual problems, and that we should help them in dealing with those problems.

Mr. ROGERS. Well, now, the unusual problem has arisen in Warren County, Va., where the Federal court by order has said that the school board should keep that school open, and that is the first order that was issued by any local court requiring them to keep a school open. There have been many orders of desegregation, but this is the first one that compelled them to keep the school open.

Well, now, let's assume that the school board doesn't levy the taxes, doesn't certify according to the law and put on taxes and they run out of money, and they don't have money to pay the teachers, and they make no request to you: Would you be authorized under this legislation to assist that school district and help pay the school-teachers?

Secretary FLEMMING. No. There is nothing in this legislation that would make that possible. It seems to me, Congressman Rogers, that you are developing a hypothetical situation there.

Mr. ROGERS. Well—

Secretary FLEMMING. Pardon me, I don't mean it is a situation that couldn't arise.

Mr. ROGERS. Sure.

Secretary FLEMMING. But you are developing a hypothetical case there that would present—which would result in the presentation of some very important issues to the local district court—

Mr. ROGERS. Yes.

Secretary FLEMMING. Because you are suggesting, as I understand your question, you are suggesting or raising the question of what would happen if there was a complete defiance of the court's order, and I think that that would be a matter for the court to consider.

Mr. ROGERS. Thank you, sir.

Mr. HOLTZMAN. Would you yield at that point for one question—all right, go ahead.

Mr. McCULLOCH. Of course, the ultimate implication of his question would lead to the possible operation of the schools in a sovereign State by the Federal Government, would it not?

Secretary FLEMMING. And that we are opposed to.

Mr. RODINO. Mr. Foley.

Mr. FOLEY. Mr. Secretary, with regard to the grants-in-aid to State or local school agencies, the Shuttleworth case has been affirmed by the Supreme Court in a per curiam decision upholding the constitutionality of Alabama's pupil placement law on its face.

In effect, it obviously means that each and every case must be tried and decided on its merits as to the individual pupil.

Now how can your plan operate if that law is held to be constitutional, and the State or a local agency comes in and asks for aid?

Secretary FLEMMING. Well, Mr. Chairman and Mr. Foley, I think in an area of this kind it is difficult to respond to questions that rest back on suppositions that may never become a reality. But if there is to be a discussion of hypothetical situations of that kind, I think those should take place with the Attorney General, because I am getting outside of my bailiwick and outside of the area of responsibility that I have, because really you are raising a question of how we should handle a specific matter involving the carrying out of the Supreme Court decision, and I don't—

Mr. FOLEY. This is not hypothetical, because if the Birmingham school board, which was the school board involved in the Shuttleworth case, came in tomorrow morning, after the enactment of this act and asked for a grant-in-aid under the provisions of this bill, could you grant it?

Secretary FLEMMING. If the State of Alabama had presented a plan which we had approved, or if the State of Alabama had said that any community that wants to come in and ask for assistance directly can do so, or if the State of Alabama had adopted a local option provision, under any of those conditions or circumstances, the city of Birmingham could come in and ask us to pay half the cost of additional professional services that they wanted to utilize in order to further their program of desegregation.

Mr. FOLEY. According to what the State of Alabama has said, that under its pupil placement law, they set up certain standards, and you cannot segregate on the basis of race under that law. That is their plan, and they come in and say, "That is our plan for desegregation; are we eligible?"

Secretary FLEMMING. Well, in the first place, as we have indicated, they can't deal directly with us unless the State has given consent. But if the State had given consent, and if they came in and said that, "We are moving in the direction of desegregation, and desire some professional technical help to assist us, and would like you to handle half of the costs," I don't see anything standing in the way of our giving them that kind of help and assistance.

Mr. McCULLOCH. Will the gentleman yield there?

Again by way of repetition, it is the studied judgment of the Department and of the administration that there is no desire to go beyond the proposal in the bill in question at this time, is that correct?

Secretary FLEMMING. That is correct, Congressman McCulloch.

Mr. RODINO. Mr. Toll.

Mr. TOLL. May I ask the Secretary a question with respect to title VII, section (b), of Mr. McCulloch's bill 4457?

Do I understand the interpretation you received from the Department of Justice of the language to carry out the constitutional obligations in connection with the word "assist," and it is referred to also by the President in his message in which he says, "assist them in making the necessary adjustments required by the school desegregation decision," that the word "assist" is interpreted to mean assist upon request?

Secretary FLEMMING. That is correct. The whole bill is drafted in that manner.

Mr. TOLL. In other words, the Department of Justice has interpreted that word "assist" to mean assist upon request, the way you now put it?

Secretary FLEMMING. You ask me, we don't have any formal opinion from the Department of Justice, but this bill was drafted in cooperation with the Department of Justice, I mean, our proposals were, and surely all of the other provisions of the bill make it perfectly clear that the assistance can be given only if the State submits a plan which is approved or if the State gives its consent to a local community asking for assistance. Those are the only conditions under which these funds could be used.

Mr. RODINO. Mr. Secretary, did I understand that you were making a distinction regarding the method or the approach being used in the question of segregating education where military personnel, the children of military personnel, are concerned?

Secretary FLEMMING. Well, title VI, Mr. Chairman, is really an amendment of the existing law, Public Laws 815 and 874. Under the existing law, if the commanding officer, say, an Army base or Army post, or naval base, finds that it is impossible for the children of the military personnel living on that base to secure an education, he can ask the Commissioner of Education for a grant of funds which would enable him to organize an educational program on the base.

Under the present law this applies only to the children of military personnel who live on the base. We are proposing that it be amended so that it will apply also to the children of military personnel who live off the base. We see no reason for drawing a distinction between the children of military personnel who live off the base, as contrasted with those who live on the base. That is all we are asking for.

Mr. RODINO. I would like to direct your attention to a situation regarding the transfer of some 21 acres of land which were considered surplus to the requirements of Redstone Arsenal, I think some time last year, and the question arose there, and the question was directed to the Department of the Army, whether or not the acreage was going to be used for the construction of a segregated school, and it appears, and the question was directed to the Department of the Army by Mr. Clarence Mitchell of the NAACP, and there was a letter which was directed in reply to Mr. Mitchell by the Department of the Army in answer to Mr. Mitchell's question, and the reply is this, this is the pertinent part. This letter is dated December 5, 1958:

An inquiry into the school situation mentioned in your letter indicates that 21 acres of land surplus to the Redstone Arsenal were transferred to the Huntsville, Ala., School District as the site of an elementary school.

Under the provisions of existing law and policies established by the U.S. Commissioner of Education, children residing in federally impacted areas must be educated in schools operated and controlled by local public school agencies in accordance with local laws and standards, unless the local agency is unable to provide such education.

It goes further:

In this instance the local education agency has not indicated that it is unable to provide education for the affected children, and the Department of Army therefore is without authority to require any operational aspects of local education at variance with local laws.

What would the position of the Commissioner of Education be with regard to this? Is there any change then, would there be any change in the policy and thinking under the present provisions of the bill?

Secretary FLEMMING. May I say, first of all, that just listening to your reading of it, I think the letter accurately states the existing legal situation.

But if I may go to our proposal, as I have indicated to you, under our proposal the commanding officer, if he found that it was impossible for the community to provide educational facilities, could apply to the Commissioner for funds to be used for the purpose of developing school facilities for both onbase children of military personnel, and offbase children of military personnel. Those facilities would, of course, be desegregated facilities, because that is the existing policy as far as the armed services are concerned. There would be no question about that at all.

As my testimony indicated, I think your Norfolk situation gives you a good illustration of what we are trying to do.

Under the existing law, if the schools had remained closed there, the commandant of the Naval Base in Norfolk could have asked for funds to provide school facilities for about 350 children. Those were the children of military personnel living on the base. But there were 2,100 other children of military personnel who were living off the base, and under existing law he could not have used, or we could not have provided funds for him to use to provide facilities for the 2,150. We think we should be in position where we could have taken care of all of the children of military personnel in the Norfolk area, and we would have taken care of them—of course, the Navy would have taken care of them by providing desegregated facilities.

Mr. RODINO. Would you envision any difficulty if the local officials were opposed, and again this is hypothetical, of course, and they would refuse to rent facilities, would there be provision to construct facilities?

Secretary FLEMMING. We have got language in here which would give the—well, first of all, would give us authority to provide funds to the commandant to construct facilities, yes, there isn't any doubt about that, but it would also give authority to acquire some facilities that might already be constructed.

In other words, I think right near the end of my testimony is a good summary of it. I said in addition to legislation it would authorize the Commissioner to acquire possession of any school building constructed with the aid of Federal funds after enactment of the proposed amendments when the local educational agency which owns the building is no longer using it for free public education, and the Commissioner needs the building to provide education for children of military personnel or to other children who reside on Federal property.

While the school remains in Federal possession, the Commissioner would pay the local district a rental fee proportionate to its share in the cost of constructing the building. That would cover some types of situations.

In other words, in some of these—I don't know that this was true in Norfolk, but you could envisage a situation where the Federal Government under 815 had helped the local community to construct a building.

Then the school system is shutdown. Then under those circumstances we are suggesting that the Commissioner should have the right to acquire that building for this purpose.

Mr. RODINO. That is just the point, he would have the right to acquire. But yet if local authority were opposed and there were local laws to support the opposition, under what authority then would the Federal Government step in? How would it acquire it? Would it be under right of eminent domain, would it just step in there, or how?

You are talking about either acquisition or renting.

Secretary FLEMMING. It would be a condition of the grant of funds in the first place that we would have the right of reoccupancy under these circumstances. I don't think there is any problem in the Federal Government attaching that kind of a condition to its initial grant of funds. And we would want to make that perfectly clear, and I think it is clear in the draft, but if there is any question about it, of course, we would want to make it clear.

Mr. ROGERS. That is the draft in your proposed legislation?

Secretary FLEMMING. Yes.

Mr. ROGERS. Can I ask a question?

Mr. RODINO. Go ahead.

Mr. ROGERS. A great deal of testimony or argument, we may say, concerning Public Law 815 and 874 has been underway, and in response to the letter which was read here, there has been contention that you, as Secretary of Health, Education, and Welfare, have the authority to withhold from those States and school districts that practice segregation, that you have the authority to withhold funds from them.

Has that authority been exercised, that you know of?

Secretary FLEMMING. Mr. Congressman, in the first place, I do not think that either the language of any of these laws or the legislative history back of any of these laws would support the contention that we have such authority, and furthermore, I would not advocate that we be given such authority because then you immediately substitute an action of that kind for action on the part of the Federal courts to determine how and with what speed we should move on the desegregation matter.

Mr. McCULLOCH. Would the gentleman yield there?

Mr. ROGERS. Let me ask one other question:

There has been some testimony before this committee that an order was drafted that would withhold funds from segregated schools and those that did not sign it. I am just wondering if you participated in any of that or know anything about it.

Secretary FLEMMING. I do not know of any such proposed order, Mr. Congressman.

Mr. HOLTZMAN. Would you yield at that point?

Mr. RODINO. Mr. McCulloch.

Secretary FLEMMING. I make that statement, subject to check, but so far as my own knowledge is concerned I do not know of such a proposed order.

Mr. McCULLOCH. Such procedure, of course, would result in the executive department vetoing appropriations for specific purposes by the legislative department of the Government, could it not?

Secretary FLEMMING. That is correct, Congressman McCulloch, unless, as I say, we do not know of any affirmative action on the part

of the Congress that would give us such authority, and we do not know of any legislative history in connection with any bill that we administer that could be interpreted to give us such authority.

Surely this would be the exercise of a very important and far-reaching, very important and sweeping power, and surely the executive branch should not attempt to exercise a power of that kind unless the Congress, by affirmative action, has directed us to do so.

Mr. HOLTZMAN. Such a remedy would also give the Federal Government the kind of leadership you speak of in the portion of section 3 of Mr. Richardson's conclusions that I read before; isn't that so? The right to withhold funds? That would give the Federal Government some leadership in this problem, would it not?

Secretary FLEMMING. Might I ask, Mr. Congressman, whether you are suggesting that we have the right to withhold funds in any situation where segregation is practiced, or do you imply or does your question imply that we should have the right to withhold funds if a local school district refuses to comply with a court decision?

Mr. HOLTZMAN. I am talking about an intransigent local school system; I am talking about an intransigent State. I am talking about a group or a class or a State that defies the law of the land.

Now, wouldn't that situation give the Federal Government the kind of leadership you speak of in your own statement?

Secretary FLEMMING. I feel that I have got to break down your question.

If you have got a situation where segregation is still being practiced, and where there is no court order directing the local school district to put into effect a desegregation plan, I do not think that we should have authority to withhold funds under those conditions, because if we had authority to withhold funds under those conditions we would be getting ahead of the local district court, and would be substituting our action for action on the part of the local district court.

Therefore, I think power of that kind should not be vested in the executive branch because once again you would be substituting the executive branch for the judicial branch in determining what constitutes all deliberate speed.

Let me take a situation where a local school district has got a court order to move on desegregation, and has decided to defy it. Up to the present time the only way that they have been able to figure out for defying an order of that kind is to close the schools. If you close the school there is no problem of distribution of Federal funds, because obviously they stop the minute the schools are closed, and no other way has been worked out up to the present time for effectively defying a court order.

Of course, my assumption is, Mr. Congressman, on the basis of the experiences we have had up to the present time, that local school districts are increasingly going to move in the direction of complying with these court orders.

After all, Virginia discovered that closing the schools was walking down a dead-end street, and they arrived at the dead end and had to turn around and start opening the schools.

So, as I see it, general authority of the kind that you suggest would not be a sound delegation of authority to the executive branch, because it would mean that we would be substituting the executive branch for

the judicial branch in handling this matter, and in terms of a defiance of a court order on the part of a local school district, I don't think we need any additional authority because that defiance would reflect itself in closing down the schools, and we would immediately shut off the money, because we are not going to give any money, I can assure you, to any of these private schools that are set up in order to get around some of these orders.

Mr. HOLTZMAN. So you don't feel under any circumstances that the Federal Government should have the right to withhold funds from a school board or a community or a State that defines the law of the land, the Supreme Court decision?

Secretary FLEMMING. My point is this: If they defy a specific court order, the only way in which they can defy it is by closing the schools, and of course, the money will stop immediately.

I don't think that we should have the authority to withhold funds from a school district where segregation is still being practiced in the absence of a court order directed to that school district to eliminate their segregation practices.

Mr. MILLER. May I ask a question there, Mr. Chairman?

I think the real crux of this thing, to get to Mr. Holtzman's question, is that all the Supreme Court said in 1954 was that these schools should start the process of desegregation as rapidly as possible under all circumstances then involved within any particular school area.

Then the Supreme Court turned it back to the Federal district courts for enforcement.

Secretary FLEMMING. That is right.

Mr. MILLER. Now, following Mr. Holtzman's theory, you may have the U.S. Government, through executive action, in contradiction or defying the Supreme Court order if you follow his theory, because a district court might decide in a particular area at a particular time that it wasn't yet ripe for desegregation, and yet you would be substituting your executive action for a determination of the court.

Now, your position, and I think very soundly so, is that when the court decides this district should desegregate and it doesn't do so, and is then in violation of a court order, then, of course, you should stop it. I mean, that is the crux of it, isn't it?

Secretary FLEMMING. That is right. As I have indicated, they defy it by closing the school; we step in by closing the funds.

I concur completely with your statement, Congressman Miller. It reflects my own feelings on it.

I think we have got to be very, very careful to carry this out in accordance with both the letter and the spirit of the Supreme Court decision, and certainly the Supreme Court has made it very clear that they feel that the circumstances that prevail in the local community should be taken into consideration.

Mr. MILLER. That is what the court said.

Secretary FLEMMING. By the district judge.

Mr. MILLER. That is the law of the land.

Secretary FLEMMING. Now, any blanket legislation that cuts off funds right straight across the board to all school districts that are still engaging in segregation is in complete conflict with the Supreme Court decision.

Mr. ROGERS. And the logical end of that would be that before the Federal Government would come into it, then, there must be an

action filed in each school district in each State before the Federal Government would be interested; isn't that correct, Mr. Miller, according to your interpretation?

Mr. MILLER. I would say in order to be in conflict with the law of the land.

Secretary FLEMMING. Of course, I think at this point, Mr. Congressman, we should take note of the fact that quite a number of communities have initiated desegregation plans without waiting for court action. The hearings before the Civil Rights Commission last week brought that out very clearly, and I think those communities should be given all credit for moving in that direction, and of course those are communities and States that are in a position to receive assistance from us, and we would be delighted to obtain it.

I don't think you have to be completely dependent on court action; I think we have got to take note of the fact that public opinion is developing in support of the basic principle that is reflected in the Supreme Court decision, and I think increasingly communities move in the direction of desegregation on their own initiative.

But you are, of course, correct; if a community is not going to make any move at all, then it would be necessary to initiate a court action, and for the court to make a decision as to what that community should do.

I like that process because of the fact that that court, that district judge, is in a position to take evidence, and develop a good feel of the circumstances that exist in that particular community, and then base his order on the evidence which he has taken relative to the circumstances in the community, and that, after all is what, as I see it, the Supreme Court thought should be done. I think that is wise.

Mr. RODINO. Mr. Secretary, since you talk about public opinion and place so much emphasis on that, then it follows as a good corollary that responsible authority ought to try to do something to encourage the public opinion to move along faster in that direction.

Mr. McCULLOCH. Well, Mr. Chairman—

Secretary FLEMMING. Mr. Chairman, may I say that I think that certainly steps have been taken along that line. The action on the part of the Congress in creating the Civil Rights Commission was designed to make it possible for the Government to exercise leadership, and I personally feel that the Civil Rights Commission has been doing an excellent job in the various areas that it has touched, and certainly, as I indicated before, I felt a responsibility, as a public official, to call attention to certain situations that have developed in the educational field, such as the closing of the schools, and I did it in the hope that I could help in formulating a public opinion which would say in those communities, "Look, we are not going to stand for defying educational opportunities to the children of our community."

Mr. RODINO. I think that is a very fine statement, and we certainly appreciate that.

Mr. HOLTZMAN. On that point, may I ask a question?

Mr. McCULLOCH. I think if I may have this space at this time—

Mr. HOLTZMAN. I defer to you.

Mr. McCULLOCH. I might say I think there is a considerable incentive in the provisions of this bill if it becomes a law. It has been my experience over a lifetime, a good deal of it in Government, that

grants-in-aid are one of the most powerful incentives to people at all levels of government. This is the carrot in front of the donkey or horse. [Laughter.]

Secretary FLEMMING. Congressman, I think that is an important aspect of our bill.

Mr. Chairman, could I just correct one matter?

Congressman Rogers and I were talking about Oklahoma and Kansas. Apparently Kansas did have a few segregated school districts before 1954.

Mr. ROGERS. But not by statute.

Secretary FLEMMING. So that, for example, Leavenworth, which is in the process of desegregating, would apparently be one of the States that could come in under the law.

Mr. ROGERS. Let's move over to my State.

Secretary FLEMMING. Yes; that would be a perfect illustration, but I want the record to be straight on Kansas.

Mr. RODINO. Mr. Holtzman.

Mr. HOLTZMAN. Mr. Secretary, we have been talking about public opinion and responsible authority, and I am sure we all have the same thing in mind. I want to pose a question to you:

Do you think that it would have been more responsible and would have helped to create a better public opinion if the President had said once that the decision of the Supreme Court was the right thing, rather than saying that it was the law of the land and therefore had to be obeyed?

Secretary FLEMMING. Mr. Congressman, I think the President has very clearly stated his position on that matter from time to time. It is a position which grows out of his convictions relative to his responsibilities as the Chief Executive, and I know that they are deep-seated convictions, and I respect them and I feel that in the long run our Nation will appreciate the fact that he has stated in such a firm manner—

Mr. HOLTZMAN. Such a what, sir?

Secretary FLEMMING. Has stated in such a firm manner his beliefs relative to the role of the Chief Executive under such circumstances.

Mr. HOLTZMAN. But that was not the question. We are not asking about the role of the Chief Executive, Mr. Secretary.

Secretary FLEMMING. I am making it perfectly clear all I am saying—

Mr. HOLTZMAN. If I may repeat the question, the question was:

Do you think it would have helped public opinion in this country if the President had at least once said that the decision of the Supreme Court was moral and right, instead of simply saying that it was the law of the land and it mattered not what he thought of it, it should be obeyed?

Secretary FLEMMING. Mr. Congressman, I stand with the position I have taken. I think the President handled the matter in an appropriate way and in a manner in which I endorse.

Mr. HOLTZMAN. That is a matter of opinion, of course.

Secretary FLEMMING. I appreciate that, but you asked for my opinion, and I feel that he handled it in an appropriate manner.

Mr. RODINO. Mr. Secretary, if there are no further questions—

Mr. McCULLOCH. Mr. Chairman, there are two or three questions I would like to put to the Secretary.

Mr. Secretary, it is evident on the Hill from time to time that there are a great many people and sections, if sections can have opinions, contrary to Federal aid to education for current operating expenses particularly.

Is it the intention of the provisions in the bill for financial assistance to be the commencement of a permanent program of Federal assistance to schools in the field of current operating expenses in this country?

Secretary FLEMMING. Mr. Congressman, it is not, and the bill is drafted in such a manner as to make it perfectly clear, I think. It has been drafted to deal with what we regard as a genuine emergency or transition situation.

The law provides that it is to be operative during just 2 fiscal years, the years 1960 and 1961. It provides that by, I think it is January 1961, the Secretary shall file with the Congress a report indicating whether or not there should be an extension of the authority in the bill.

Mr. McCULLOCH. So that the single clear and unequivocal sentence at the top of page 5 of your statement is just that, and that is what you mean, and I now quote:

Federal assistance provided by title VII would, of course, be of a temporary nature.

Secretary FLEMMING. That is correct. I might also call attention to the fact, Mr. Congressman, that the kind of assistance that is called for here is not the kind of assistance that we normally think of as assistance for general operating expenses. It is assistance that would enable the local school districts to bring in specialized personnel to deal with this specific situation.

Mr. McCULLOCH. Now, Mr. Secretary, I am inclined to believe that some of our questions this morning have left the inference that title VII is not nearly stringent enough, that the moderate, temperate approach of that title is not nearly so good, for instance, as title IV in H.R. 3147 by the chairman of this committee.

I wonder if you or if your counsel have had time to thoroughly study title IV entitled, "Administrative action directed toward eliminating segregation in public education," and title V entitled, "Authorization to the Attorney General in the field of public education," and if you or your counsel have had time to thoroughly study those two titles, could you tell us why you propose title VII of the McCulloch bill in preference to title IV and title V of H.R. 3147?

Secretary FLEMMING. Mr. Congressman, I will be very happy to do that.

I am familiar with the title to which you refer in the other bill.

To a certain extent I have already addressed myself to the philosophy underlying title IV, but I would like to restate it and amplify it just briefly.

As I have indicated in response to other questions, we feel that the Supreme Court has placed upon Federal district courts the responsibility for determining what constitutes "all deliberate speed," and what constitutes "good faith compliance."

We are opposed, as title IV of the other bill would, to shifting this responsibility to the executive branch. We believe that our role should be the role of assisting States and communities in their efforts to comply with court decisions.

We are convinced that local communities would be far more willing to accept the decision of a local district court as to what constitutes an acceptable desegregation plan than to accept the judgment of an official of the executive branch located in Washington on the same matter.

No matter how you dress up a provision of this kind, the local community will interpret it as an effort on the part of an official of the executive branch in Washington to impose his will and his judgment on the local community.

As a result, resistance to the decision will be generated in the community to such an extent that instead of facilitating desegregation, we would be put in a position of impeding it.

For those reasons, we are very much opposed to that particular approach.

Mr. McCULLOCH. That, Mr. Secretary, in my opinion, is an excellent statement.

Secretary FLEMMING. Thank you, sir.

Mr. MILLER. Mr. Chairman, may I ask one final question?

Mr. RODINO. Go ahead, sir.

Mr. MILLER. Mr. Secretary, I do not like in this field of civil rights to get into the realm of politics. But since Mr. Holtzman asked the question as to the President's words in connection with this Supreme Court decision, might I ask you if you don't think that after 20 years of words and no actions, that the President by Executive order eliminating desegregation in the District of Columbia and then the Armed Forces, has by action very forcefully manifested his feelings in this whole area?

Secretary FLEMMING. No question in my mind about that.

Mr. MILLER. Thank you.

Mr. RODINO. That is not political, of course. [Laughter.]

Are there any further questions?

(No response.)

If not, thank you very much, Mr. Secretary, for having come here and for your very valuable contribution.

Secretary FLEMMING. Thank you, Mr. Chairman. I am very happy to do it.

Mr. RODINO. We will now hear from the Honorable James P. Mitchell, Secretary of the Department of Labor.

Mr. Mitchell, we are very happy to welcome you here, especially since you and I are residents of the same great State of New Jersey and neighbors, you coming from Elizabeth and I coming from Newark, and so I am happy to see you.

Secretary MITCHELL. That suburb of Elizabeth.

Mr. RODINO. Yes. [Laughter.]

You mean Elizabeth is.

Secretary MITCHELL. No.

Mr. RODINO. Mr. Secretary, do you have a prepared statement?

Secretary MITCHELL. I have a very brief prepared statement, Mr. Chairman, which I would like the opportunity of reading.

Mr. RODINO. Yes; you go right ahead and read your statement.

STATEMENT OF HON. JAMES P. MITCHELL, SECRETARY, DEPARTMENT OF LABOR; ACCOMPANIED BY JACOB SEIDENBERG, EXECUTIVE DIRECTOR, PRESIDENT'S COMMISSION ON GOVERNMENT CONTRACTS

Secretary MITCHELL. Mr. Chairman and members of the committee, I appreciate this opportunity to discuss with the members of the subcommittee the proposal recommended by the President to further equal job opportunities under Government contracts for all Americans regardless of race, color, creed, or national origin.

This proposal, which is an integral part of the civil rights program outlined by the President in his special message of February 5, would establish by legislation a Commission on Equal Job Opportunities Under Government Contracts. Legislation to carry out this recommendation is part of the legislative program of the administration and has been introduced by the chairman of this committee as H.R. 4348, and by Mr. Kearns as H.R. 4169. It is also embodied as title V in H.R. 4457, introduced by the ranking minority member of the committee—the comprehensive bill to carry out all of the President's civil rights recommendations.

There are many reasons for seeking to bring an end to discrimination in employment. To deny a man an equal chance at a job or at advancement because of his race, his religion, or the place where he or his ancestors were born, is to deny that all men are created equal and have a right to a fair chance.

Let me suggest four reasons why this legislation should be supported—why steps to give all men equal job opportunity should be taken by this Congress:

First, it is the right thing to do.

Second, this country has always had a special quality, a unique standing among nations, as the land of opportunity. Other nations have been inspired by this example in the past. Today, our neighbors in the world judge us not by our excuses but by our accomplishments.

Third, America cannot afford to waste the skills of any man. We need the full use of all our talents to meet the challenge of international communism.

Fourth, some of our citizens have only lately begun to enter fully into our national life. The further progress of all our fellow citizens must have a firm economic base. Advances in education, health, and in the full use of the rights of citizenship will be far more rapid, stable, and easy if all our citizens can achieve the same economic status as other Americans of equal gifts.

There is specific need for this legislation. The administration has taken several steps in an effort to eliminate discrimination in employment. By Executive orders the President in 1953 established the present Committee on Government Contracts, and in 1954 he required all Government contracting agencies to include in their contracts a standard provision obligating the contractor not to discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The provisions of these Executive

orders has been administered by a nonpartisan committee composed of top officials of the Government, of labor, of management, and of the public.

But, if a Commission of this type is to do its job fully and effectively, its basis in law should be clear and unequivocal. If the task of Government to advance equal job opportunities is worth doing, it is worth doing right, and it is worth doing with the full weight of Congress behind it. An agency of this kind should be strengthened by congressional approval.

Under this legislation the Commission would continue to perform substantially the functions now being performed by the Government Contracts Committee. The function of the Commission would be primarily to coordinate the work of the Government's contracting agencies in implementing the standard nondiscrimination clause.

Under this bill the President would be authorized to appoint a 15-member commission. This proposal would direct the Commission to make recommendations to the President and the Federal contracting agencies for improving and making more effective the nondiscriminatory provisions of Government contracts. Also, the bill would direct the Commission to continue the work of the Committee in encouraging the furtherance of educational programs and in cooperating with State and local governments and other groups in achieving the purpose of the act. The bill would authorize the Commission to make investigations, studies and surveys and to conduct hearings as may be appropriate to discharge its duties under the act.

This country must carry out the vision of our Founding Fathers. It must continue to expand its economy and to maintain its industrial leadership. It must and should do all that it can to open job opportunities to all qualified persons without regard to race, creed, color, or national origin. The Government must assert the necessary leadership, particularly in its own areas of responsibility, as the President seeks to do in recommending this legislation.

Although Government agencies, employers, and unions have widely accepted the programs of the President's Committee, and significant progress has been made, enactment of the proposed legislation would materially advance the promotion of equal job opportunity. It would give congressional approval to the policy now implemented through Executive order and should produce additional progress toward the highly important goal of providing equal job opportunities for the people of this country.

I strongly recommend the enactment of this proposal.

That, Mr. Chairman, is the end of my prepared statement.

Mr. RODINO. Thank you, Mr. Secretary.

Mr. Secretary, I understand that there are segregated employment service offices and facilities which are being maintained in the following States:

Alabama, Florida, Georgia, Tennessee, Mississippi, North Carolina, Oklahoma, South Carolina, Texas, and Virginia.

In view of this situation, is the Department of Labor doing anything to correct this situation?

Secretary MITCHELL. Well, as you know, Mr. Chairman, the employment security program is a Federal-State program.

The Federal Government has by law certain responsibilities in coordinating the administration of the program in the several States and assuring that the State employment offices are efficiently administered.

The determination of State policy, the hiring of personnel, the determination of benefits to be paid under the unemployment compensation system—for example, the determination of the duration of such benefits, is the responsibility of the States.

In other words, the State employment security agencies are State agencies.

It is the responsibility of the Federal Government to assure effective and efficient administration by the States, but it does not have the full authority to tell the States on all occasions as to how they should operate their agencies.

Now, we have been working with the States in an effort to improve their administration, to improve their way of doing business on all fronts, and on this problem—this is a matter that has to be worked on and, in my opinion, is one that cannot be arbitrarily accomplished overnight.

Mr. RODINO. We recognize that.

Of course, it is assistance by way of Federal funds which helps in the administration of the State offices?

Secretary MITCHELL. That is right, sir.

Mr. RODINO. And yet these practices still continue. That was the reason for my question, and especially in view of the fact that, as has been pointed out, there have been instances where there has been the separation of the type of work orders that come out: Where there is custodial work, work of that nature—why, they are sent to the areas for colored people who are seeking employment assistance; and others that may be of a different nature, a higher level work, are sent into the other areas.

As a matter of fact, it has been pointed out that there are separate facilities, just as you recognize, for the servicing of the white and the colored.

Although the Department of Labor, of course, recognizes the situation and proceeds in this manner, because of laws, as you state, why, nonetheless, in view of the fact that there are Federal funds, I think that the Department has to take a dimmer view of the situation as it exists in these States.

Secretary MITCHELL. Well, certainly, Mr. Chairman, I would agree with you that within the responsibilities and authorities of the Department, we would seek to correct this kind of a situation as well as many other situations of what we consider to be bad or undesirable administration.

Mr. RODINO. Mr. Secretary, in view of the fact that you have discussed this Committee on Government Contracts, and there is emphasis placed on the workings and the needs for continuing it with funds for its operation, I would like to ask you some of its history and how this Committee functions now.

Tell me something about its staff. We frankly are not completely conversant with it. We had some of the officials yesterday who gave us some information, but we would like to get some information in that direction from you.

Secretary MITCHELL. Well, the history of this kind of an activity goes back, Mr. Chairman to the early forties under President Roosevelt and President Truman, and again under President Eisenhower.

The Committee, under President Eisenhower, functions through the contracting agencies.

Essentially, as you know, the President has directed that each contracting agency include in all of its contracts a clause which says, in effect, that the contractor agrees to employ persons without regard to race, color, creed, or national origin, and to upgrade and train without regard to race, color, creed, or national origin.

The Committee exacts from each contracting agency a responsibility to see that that clause is enforced.

The Committee functions in several ways:

One, it is the receiver of individual complaints which are then transferred to the contracting agency, and reports furnished to the Committee as to the resolution of these complaints.

In addition, the Committee has caused to be made compliance surveys in given regions or in given industries to see how well the contract clause is being observed.

Furthermore, the Committee has called together interested groups in the country who are interested in this problem, to promote a better understanding of it, and to use all the resources of the local community in getting compliance.

In addition, the Committee has established a relationship on a periodic basis of the various State and city agencies which are in this field.

It works very closely with the private agency, such as the NAACP, the Urban League, and the Friends, and other agencies that have an interest in this field.

Essentially, Mr. Chairman, this is the general overall way in which the Committee works.

Mr. RODINO. You are the Vice Chairman, Mr. Secretary?

Secretary MITCHELL. Yes, sir.

The Committee consists of a number of Federal officials and a number of public officials, and also has labor representation. I have a list here of the Committee which I would be very glad to put in the record.

Mr. RODINO. We would be pleased to receive it.

Secretary MITCHELL. The Chairman is Vice President Nixon; I am the Vice Chairman; and Maj. Gen. C. E. Ryan is Executive Vice Chairman.

The members are Mr. George Meany; Mr. Walter Reuther; Mrs. Helen Rogers Reid; Mr. John Roosevelt; Dr. James M. Nabrit; Fred Lazarus; George B. McKibbin; Lawrence E. Walsh, who is the Deputy Attorney General; Perkins McGuire, Assistant Secretary of Defense; George T. Moore, who is the Assistant Secretary of Commerce; and Harry Traynor, who represents the Atomic Energy Commission.

Mr. RODINO. Mr. Secretary, what is the operating volume in Government Contracts?

Secretary MITCHELL. The budget of the President's Committee last year was approximately \$350,000.

Mr. RODINO. How many employees are there?

Secretary MITCHELL. Twenty-six.

Mr. RODINO. Twenty-six employees.

Secretary MITCHELL. Yes.

Mr. RODINO. Would you say it is a fair estimate that one-fifth of the total national goods and services are produced under the Government contracts?

Secretary MITCHELL. One-fifth? No; I think that would be a little high. In 1958 we had a gross national product of approximately \$440 to \$450 billion. Our total defense budget which includes personnel and materiel was approximately \$40 billion. That is about 10 percent. I would think one-fifth is very high.

Mr. RODINO. Well, of course we are considering both military and nonmilitary.

Secretary MITCHELL. Yes. Of course, the bulk of Government contracts, I think you would find on analysis, are contracts let by the military in terms of dollar volume.

Mr. RODINO. What is the nature of the complaints received on Government contracts? We heard yesterday a discussion on the nature of complaints, and there was by mediation, education, and persuasion, correction of such so that actually, as I concluded, everything seemed to have been all right in that area.

What are some of the complaints? What is the nature of them, from the investigation?

Secretary MITCHELL. The nature of the complaints, Mr. Chairman, varies.

You have the simple complaint that an employer is discriminating and refuses to hire a person because of his color. That is one type of complaint.

You have the type of complaint which says that because of color, an employer refuses to promote a person who merits the higher job on the basis of ability.

You have a broader type of complaint which says that an employer is discriminating right across the board, both in hiring and in training, without any specifics.

We have approached the problem, Mr. Chairman, on the theory that complaints, individual complaints, are a symptom, perhaps, of a condition, and we have or the staff has, as a matter of procedure, attempted to get at not only the specific complaint and get that resolved, if it is meritorious, but also to investigate or to have investigated the condition which brings about this complaint.

Let me give you an example of what I mean. Several years ago we—and this is one in which I was personally involved, so this is the one which occurs to me—several years ago we had complaints that there was discrimination in an oil refinery in Louisiana; and upon investigation we found that this complaint was accurate, that this oil refinery discriminated to the extent of having two contracts, two labor contracts, one labor contract which covered colored people and one labor contract which covered white people, and that certain jobs were available to Negroes and that, regardless of ability, a Negro could not go beyond what was essentially the lower rated or almost janitorial jobs.

We brought the management of the refinery to Washington, talked to them, got their agreement that this was a situation which needed to be corrected, and they set about correcting it.

Incidentally, I might say that one of the difficulties we had was getting the union to agree to a correction.

We have now in that plant one contract. The job progression provision in the contract provides for progression of all employees regardless of color and based entirely on merit.

This is the type of operation which we think has long-lasting benefit.

Mr. RODINO. I think it is commendable that you can resolve some situations like that. But the thought comes to me—and I think I am correct—that there is no accurate provision for any enforcement where there may be this discrimination, where this discrimination exists, and you have got to then resort to this, as was described yesterday, mediation, education and persuasion.

Does that always work, and does that work when you consider the number of complaints you have had?

Secretary MITCHELL. Well, Mr. Chairman, you are dealing here in a rather intangible area. In your own State of New Jersey, for example, you have a State law which has enforcement powers. But I am sure that you would find if you talk to the people in charge that the real problem, if any progress is to be made, is in the area of discussion and mediation and persuasion rather than by court enforcement, and I think you would find, as a matter of fact—

Mr. RODINO. Of course, you must admit, Mr. Secretary, that New Jersey was one of the first States to go in the direction of real equality, adopting the civil rights bill, and we have, I think, a unique State in that area.

Secretary MITCHELL. Yes; that is true.

Mr. RODINO. I think we can well be proud of it.

Secretary MITCHELL. Very proud. But I was going to point out that even there, your operation in this field is in the education department. That this function in your State and my State, properly so, I think, is placed in charge of an assistant commissioner of education, which is a significant thing. And I think that New Jersey was very farsighted in drafting legislation which put the emphasis on education in this area.

Mr. RODINO. Yes.

Mr. MILLER. Mr. Chairman, can you not withdraw the contract if they violate this provision of the contract, the Federal Government? Can not the Federal Government cancel its contract with an employer who violates a provision like that?

Secretary MITCHELL. Yes, it can, Mr. Miller. It can. And yet, this authority has never been used because, as you understand, the execution of the contract, the surveillance of the contract, rests with the contracting agency, and we have never yet found an employer who was so intransigent to the point where the only solution was a cancellation of the contract.

This, Mr. Miller, is, to my knowledge, the experience, too, of States like New York and New Jersey which have enforceable provisions in their law; in very few cases have they used it.

Mr. MILLER. I was going to ask Mr. Rodino to include New York.

Secretary MITCHELL. Yes.

Mr. RODINO. We are very happy to include New York.

Mr. Secretary, how many complaints, would you say, have been called to the attention of the Commission?

Secretary MITCHELL. Eight hundred and eight, Dr. Seidenberg tells me. And I might say that Dr. Seidenberg, sitting alongside of me, is the Executive Director of the Committee, and has been associated with this operation in Government for many, many years.

Mr. RODINO. When you give that number, within what period is that?

Secretary MITCHELL. Since 1953. August 1953.

Mr. RODINO. This is the total number?

Secretary MITCHELL. That is correct.

Mr. RODINO. Any questions?

Mr. HOLTZMAN. Mr. Secretary, I think we are mature enough to know when we get 808 complaints it reflects that there are substantially more than that in actual forms of discrimination through the country.

Do you feel that creating a permanent Commission will help you in investigating, initiating investigations on your own, in this field? Would that be the purpose of creating a permanent Commission?

Secretary MITCHELL. This is one of the purposes, Mr. Holtzman. I think that certainly the prestige of statutory and congressional approval would go a long way in helping employers to recognize that the Government and the Congress of the United States really believe in equal job opportunity in that area where the Government lets a contract, and the psychological effect, if nothing else, of congressional approval of this Commission, I think would help immeasurably in the elimination of discrimination in employment.

Mr. HOLTZMAN. Mr. Mills was here yesterday, Mr. Secretary—

Secretary MITCHELL. Mr. who?

Mr. HOLTZMAN. Mr. Mills, of GSA, testified in favor of this bill, for this Commission, and he told us so far as his agency was concerned they never put a man on a gray list or on a barred list, and that no contractor, no employment agency was ever barred from trading with the Government.

Would you say that that is true of every agency, or just the GSA?

Secretary MITCHELL. What do you mean by a gray list or a blacklist?

Mr. HOLTZMAN. Well, a debarred list, a list of people who have been so intransigent that they have refused consistently to comply with the so-called persuasion.

Secretary MITCHELL. Well, to my knowledge, Mr. Holtzman, none of the contracting agencies have been faced with that situation.

The nearest approach to it that I can recall in my service on the Committee has been the problems the Committee has had with certain public utilities in the South where, for example, there was a refusal on the part of the employer to post the Committee's notice which says, in effect, that this employer does not discriminate, in a public place so that applicants for jobs can see it.

We have wrestled with this problem for some time, and in most cases, sometimes after a year of discussion, have been able to win our point.

I would not like the committee, this committee, to be under the impression that everything is lovely in this field. Certainly we all know that that is not so.

We all know that there is discrimination in employment. We know there is discrimination in upgrading and training and in promotion.

And for my part, as a member of the Committee, I would like to get on the record that, regardless of what a contracting agency may say, there is room, in spite of the progress the President's Committee has made, there is plenty of room for further improvement in this area. And that is the reason we are seeking this legislation, because we think this will help to improve the situation.

Mr. HOLTZMAN. I could not agree with you more, that there is plenty of room, and I doubt that even the surface has been scratched in this field. And it is hard for me to believe that people have complied by means of persuasion and education alone. I think you ought to use more frequently the opportunity you have of debarring these men from trading with the Government.

I venture to say that most of the compliance you have had thus far has been pro forma, and the followup, if this Commission be set up, is going to be substantially more important than the creation of the Commission, because we, the good Lord knows, have enough commissions in our Government today.

If we create this Commission and then there is a substantial followup in administrative procedure in enforcing these things, there is some hope for the Commission accomplishing something.

Secretary MITCHELL. Mr. Holtzman, may I comment on what you have said. I would not agree that the operation of the Committee as presently constituted has been pro forma. I think that a great deal has been accomplished.

Mr. McCULLOCH. Mr. Chairman and Mr. Secretary, may I interrupt you there.

I think there is very substantial evidence on the record from our distinguished colleague Mr. Dawson, from Illinois, that your Committee has made very great progress, and its actions have resulted in great good. As a matter of fact, if I remember the testimony correctly, Mr. Dawson thought such progress had been made that he was fearful that if we ended the Committee's life we might get something which would not do quite as well with the Commission. I think that is on the record.

Mr. HOLTZMAN. I do not like to disagree with my distinguished colleague, but it was Mr. Dawson's impression that the Commission should not be enacted, and I think the rest of it is conjecture on the part of my distinguished colleague.

Mr. McCULLOCH. We will let the record speak for itself.

Secretary MITCHELL. May I—

Mr. RODINO. I think the Secretary wanted to complete his statement.

Secretary MITCHELL. May I?

I would like to address myself, Mr. Holtzman, to this concept that the effectiveness of a committee or a commission of this character is measured by the number of disciplinary actions it takes.

Mr. HOLTZMAN. I did not say that. I did not intend to say that.

Secretary MITCHELL. Well, I would like to address myself to the point that that is not a measurement.

For example, in your own State of New York, where you have had a very effective commission since 1946, I believe, there have been only five court actions brought by that commission, most of its work having been in the educational and persuasion field. So that its measurement cannot be on the basis of punitive action.

Mr. HOLTZMAN. I agree with you, Mr. Secretary, and I did not intend to convey any other notion.

Mr. ROBINO. Mr. Donohue.

Mr. DONOHUE. I have no questions.

Mr. TOLL. I would like to ask the Secretary a question: Did the present Committee concern itself solely with Government contracts, or did it also go into the question of contracts in interstate commerce?

Secretary MITCHELL. Mr. Toll, the bulk of the Committee's activities revolved around Government contracts. However, as I pointed out earlier, we have considered one of our functions to be the general education in this area by calling conferences, for example, of interested civic groups who may not necessarily be interested in Government contracts per se, but who are interested in the elimination of discrimination.

Our legal authority, the Committee's authority, under the Executive order extended only to Government contracts, with one paragraph, as I recall, of the Executive order giving us authority to generally promote the concept of no discrimination in jobs in all of the employer-employee relationships in the country.

Mr. TOLL. Mr. Secretary, is there any reason why this Committee on Equal Opportunity Under Government Contracts cannot be extended to all contracts in interstate commerce while we are about it?

Secretary MITCHELL. Well, sir, Mr. Holtzman said earlier we are all mature and reasonable people, and I think the way to go at this and get something done now is to take this Commission under Government contracts which, after all, influences the employment of hundreds of thousands of people, and if the Congress would enact legislation of this kind, I would say that it would go a long way toward helping the entire situation.

Mr. TOLL. One more question, sir. In connection with the gross national product, which you said was \$450 billion, and that 10 percent is defense contracts, what is the percentage of contracts in interstate commerce?

Secretary MITCHELL. I have no idea, sir.

Mr. TOLL. Can you give me any kind of an estimate?

Secretary MITCHELL. Well, I would suspect that in most of the—what is your definition of "interstate commerce"? Is it the NLRB definition, the Fair Labor Standards definition, or what is your definition?

Mr. TOLL. Well—

Secretary MITCHELL. They vary, you know.

Mr. TOLL. We can take the Fair Labor Standards Act.

Secretary MITCHELL. I see.

Well, it would seem to me that to get such a figure, one would have to look at the manufacturing dollar volume of business, because it could be assumed in manufacturing particularly, a large percentage, a vast percentage of the total dollar volume would be in interstate commerce.

I frankly have no figures on the tip of my tongue that would come anywhere near approximating an answer to your question.

Mr. TOLL. All right, sir.

Mr. McCULLOCH. Mr. Chairman, I would like to ask one question that supplements the questions of our colleague, Mr. Toll.

Could we properly conclude that the Secretary believes that we will make more progress in the long run by education and persuasion rather than by coercion?

Secretary MITCHELL. Oh, yes, sir.

Mr. McCULLOCH. Or by proscription?

Secretary MITCHELL. Yes, sir.

Mr. RODINO. I am sure no one intends coercion. We just want to help the situation along by having provisions written into the law which will cause people to recognize that they should abide by the nondiscriminatory provision.

Mr. McCULLOCH. Mr. Chairman, I would like to say this: Maybe there was an improper reflection in my word "coercion." I was speaking concerning possible legislation which carries penalties which, in my opinion, may in some instances result in coercion when conditions are not quite ripe, education and persuasion not having been used long enough or effectively enough.

Mr. HOLTZMAN. Mr. Chairman, may I ask a question.

Mr. Secretary, would you oppose an extension to cover this field in interstate commerce?

Secretary MITCHELL. Well, sir, as I said before, I think you can accomplish the most here in the area of education and persuasion, and if you are talking about a Federal FEPC—is that what you are talking about?

Mr. HOLTZMAN. I am asking you a question.

Secretary MITCHELL. I do not understand what you mean.

Mr. HOLTZMAN. I simply asked whether you would oppose expanding the scope of this committee to include contracts involving interstate commerce, where the Federal Government has a right to legislate. There is no question of infringing upon any State's rights here. Now the question is: Would you oppose expanding this Commission you are supporting here today before the committee?

Secretary MITCHELL. Well, may I ask you to clarify your question, Mr. Holtzman. How would you, how would the Federal Government exercise authority in this field? It does it now by virtue of the clause in the contract entered into by an employer with a Government agency. How would you suggest that it do it with relation to the employment, let us say, of the clerks in Macy's New York, which is an operation in interstate commerce?

Mr. HOLTZMAN. Well, you tell me, because you are here supporting the Commission. I am asking you, Mr. Secretary, whether the Government would oppose or whether you would oppose the Government legislating and expanding its scope in connection with interstate commerce. We are not talking about the administration of it now. We are talking about it philosophically. We will worry about the administration of it later on.

Secretary MITCHELL. Yes. Mr. Holtzman, I am here supporting this proposal to provide statutory authority under Government contracts.

Before I can answer your question, (1) I would like to know what you mean, and (2) I would like to know how you would propose to administer it, because being for or against it depends in a large measure on its reality.

Mr. HOLTZMAN. Suppose you used the same formula you are presently using now in your committee. I again pose the question: Would you then oppose expanding the scope of the Commission?

Secretary MITCHELL. Well, you see, this is unrealistic, Mr. Holtzman. Under the committee, we have a contractual relationship with the employer. The employer enters into a contract with the Federal Government agency in which he agrees that he will not discriminate.

Will you tell me what relationship there is between the Federal Government and a contractor who makes these ashtrays if the Federal Government does not buy them?

Mr. HOLTZMAN. When you tell me that you have a contractual relationship, you are simply saying that the Federal Government has jurisdiction over this problem, is that not so?

Secretary MITCHELL. That is right.

Mr. HOLTZMAN. And I say to you that the Federal Government has jurisdiction over interstate commerce, too, and I am sure you will agree with me on that.

Secretary MITCHELL. We have laws to that effect; yes, sir.

Mr. HOLTZMAN. All right, sir.

Then the question still remains whether or not you would oppose expanding the scope of this Commission so that it would cover discrimination in interstate commerce.

Secretary MITCHELL. I would want to see how you would propose to write such a law before I can express myself.

Mr. HOLTZMAN. I yield to Mr. Toll.

Mr. TOLL. One question there.

Suppose we merely amended the section in title V in the McCulloch bill by merely applying it also, simple language, to contracts in interstate commerce. Nothing else.

Mr. MILLER. At that point, may I make an observation, Mr. Chairman. Do you yield?

Mr. TOLL. I will yield.

Mr. MILLER. I think what the Secretary is trying to say, if I am correct, is that, how in heaven's name could he ever answer a question as that this morning? In the case of the Government contracts, the Government is a party to a specific contract.

Now, in your case you are covering maybe 90 percent of all of the contracts made in this country. If you want this Commission to police and to inspect and to enforce these provisions in regard to 90 percent of all of the business done in America, how many people would it take and how many billions would it cost? And that is one thing I presume you would like to know.

Mr. HOLTZMAN. I would like to answer the gentleman, if I may.

The argument has been offered here that mere congressional approval will tend to change the climate of opinion with respect to compliance with laws which deal against discrimination.

How much more wonderful would it be if that same congressional approval was given to something that is so substantially more important than just the handling of Government contracts, and also so many more hundreds of thousands of employees.

Mr. MILLER. Will the gentleman yield to me at that point? I will tell him. It would turn out to be the same thing as prohibition, because of the fact that with the obligation to police 90 percent of

these contracts, it being a physical impossibility, the compliance would be in the avoidance, and there would be a breakdown in the whole perspective of the operation.

In this case, the Secretary says that with the personnel he has and the appropriations, he can properly do a job in this area. But if you imposed upon this Commission the obligation to police 90 percent of all the business done in America, the mere fact that it could not be done and would be violated time and time again would make the whole program ludicrous.

Mr. HOLTZMAN. I might say to the gentleman in response, I do not know that it would be ludicrous. I do not even know that they are properly policing now in connection with Government contracts.

Mr. MILLER. Then don't increase that.

Mr. RODINO. The chairman will end the discussion.

Mr. HOLTZMAN. Just one more word, Mr. Chairman.

I might say, if the theme of this Commission is to indicate congressional disapproval of discrimination in employment, I think it would be wonderful and I would be delighted to support a substantially larger appropriation to get us into that field.

Mr. MILLER. If you want to introduce a resolution to the effect it is the sense of the Congress there would be no discrimination in this field, I would vote for it.

Mr. HOLTZMAN. I would like to have that in connection with this Commission, too.

Mr. RODINO. Mr. Secretary, to get back to a question which I believe is pertinent to the discussion on these contracts and the work of this Commission, could you tell me more or enlarge just a bit on this question of the annual surveys that are conducted by the committee?

I understand since 1957 there have been annual compliance surveys. Would you tell me what the purpose of these surveys is and just how you conduct them? What do they show?

Secretary MITCHELL. Mr. Chairman, Dr. Seidenberg is the staff director who is in charge of these compliance surveys, and, if you will, I would like to have him answer that question.

Mr. RODINO. We would be very happy to have you do it.

Mr. SEIDENBERG. We have made each year somewhat in excess of 500 surveys, and that stems from the Secretary's philosophy, as Secretary Mitchell has said, that complaints themselves were not a reliable index as to the extent and scope of discrimination.

The committee was interested in finding out what was the extent, among significant Government contractors, of compliance with the nondiscrimination clause, which would not be revealed if you sat by and waited for a complaint to be filed.

So the committee selected the Defense Department's list of the 100 largest contractors. We have a number of compliance offices in the different agencies, and we took the Defense Department's list of the hundred largest contractors. We circulated it among the other agencies and asked them to add their significant contractors which were not on this list, so we ultimately ended up with a master list of the significant contractors of all the Government contracting agencies, there being 29 Government contracting agencies.

We then went to the census figures which took the standard metropolitan areas which had 50,000 or more nonwhites, which is primarily Negroes. We got that list of standard metropolitan areas.

We took that list of standard metropolitan areas having 50,000 or more, went back to the contracting agencies and asked them which of those contractors had plants located in these standard metropolitan areas which had 50,000 or more nonwhites, so with this coalescing would be a list of major contractors in major significant areas, major areas with minority populations.

The staff then prepared, subject to the committee's approval, a list of questions which were approved by the Bureau of the Budget, and then the 29 contracting agencies went out and made these surveys.

Some of the questions were perfunctory: "Is the clause included?" "Is the poster posted?" "What source of recruitment do you use? Private agencies? Public agencies? Newspaper? At the gate?"

Then we asked for the occupational breakdown by rates. What were the occupational breakdowns of the work force by color, and skilled, semiskilled, unskilled, professional, and technical employees.

By that device, the committee was then (1) able to establish a base line, finding out what had been the impact at least for 1957. We do this on a periodic basis; at least, we have done it two years, and we are now underway for a third year. So the committee will have a baseline on which it can measure some degree of progress. (2) It will be able at least to inform large major contractors of the interest and concern of the President's Committee and the Federal Government in this problem, because an inspector comes around from a contracting agency and asks these questions and apprises them that this is a program which is being carried on, this all being on the initiative of the Government without waiting for a complaint to be filed.

That, in short, is the compliance survey program. I believe in 1957 we made 503, and last year—

Mr. RODINO. After you have done all this, what do they show?

Mr. SEIDENBERG. They show what I think most reasonable people would expect: That there is a significant number of Negroes in semi-skilled production jobs. There are far less, a paucity of Negroes, in white-collar and professional jobs.

Mr. RODINO. Mr. Secretary, I think a while ago, in a question relating to the personnel on the staff of this Commission, the number of 36 was advanced.

Mr. SEIDENBERG. Twenty-six.

Secretary MITCHELL. Twenty-six.

Mr. RODINO. This, of course, was not related to the contracting officers, was it?

Secretary MITCHELL. Not at all, sir.

Mr. RODINO. There are many, many contracting officers. They are in the thousands, are they not?

Secretary MITCHELL. Approximately 1,000 compliance officers work in this field.

Mr. RODINO. That is on an operational level.

Secretary MITCHELL. That is right, sir.

Mr. RODINO. If there are no further questions, Mr. Secretary, we thank you for having come here and for having presented this testimony.

Secretary MITCHELL. Thank you very much, Mr. Chairman.

Mr. RODINO. The committee will now adjourn until 2 o'clock this afternoon, when we will hear from Mr. Roy Wilkins and others.

(Whereupon, at 12:30 p.m., the subcommittee adjourned, to reconvene at 2 p.m., of the same day.)

AFTERNOON SESSION

Mr. RODINO. The committee will resume.

We will recommence our hearings. The first witness will be Mr. Roy Wilkins, executive secretary of the National Association of the Advancement of Colored People.

Mr. Wilkins, we are happy to have you here. I notice you have a prepared statement. Do you intend to read it or are you just going to summarize it?

STATEMENT OF ROY WILKINS, EXECUTIVE SECRETARY, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

Mr. WILKINS. Mr. Chairman, it is not too long and I would like to read it if you don't mind.

Mr. RODINO. You go right ahead.

Mr. WILKINS. Mr. Chairman and members of the subcommittee, my name is Roy Wilkins and I am the executive secretary of the National Association for the Advancement of Colored People whose national office is located in New York City at 20 West 40th Street. I wish, first of all, to thank the committee for this opportunity to appear and to comment upon the civil rights bills now under consideration.

Today, 5 years after the U.S. Supreme Court handed down its historic ruling of May 17, 1954, banning racial segregation in public education, less than one-third of the 2,900 biracial school districts in the Southern and border States have begun compliance with the Court's order.

Most of the complying districts proceeded voluntarily to desegregate their schools. They did so, it is well to emphasize, under State administrations which recognized at once the authority of the Supreme Court and not only permitted their subdivisions to initiate programs of compliance, but assisted them through various State officers and agencies. In such localities there has been no continuing tension or strife between citizens and no disruption of the public school system. Other school districts have yielded only to court orders directing them to do so.

In the States where obstructive and defiant legislative and administrative steps have been taken, a great many communities which might have initiated plans for compliance have been placed in a position where they can be moved only by the invocation of Federal authority, acting in support of Federal court orders.

It is a matter of record that several cities in North Carolina announced in 1954-55 their belief that desegregation could be undertaken. They were restrained by State legislation.

Several communities in Virginia were similarly restrained by the late and unlamented massive resistance program imposed upon localities by the dominant political power in the State.

The city of Dallas, Tex. was exploring a plan when the State legislature intervened and enacted a law which involved a referendum and a possible loss of State funds to school districts.

The Little Rock story is well known. That city had adopted a very limited plan and moved to put it into effect in the fall of 1957 by admitting nine Negro children to Central High School.

This token move was blocked as we all know by the calling out of State troops by Gov. Orval E. Faubus. The city has been in a turmoil ever since.

An illustration of the confusion engendered by obstructive State action is to be found in the report on a Virginia situation published March 8, 1959, by the Washington Post and Times Herald.

It will be remembered that the State of Virginia repealed its compulsory school attendance laws in an effort to prevent school desegregation. Apparently, some of the prosegregation counties discovered (as might have been expected) that this foolish action promoted truancy.

They requested the attorney general of Virginia to indicate whether local communities can pass their own compulsory attendance laws. On February 12, 1959, the attorney general of Virginia issued an opinion stating that the local communities could not enact compulsory school attendance laws.

The Post story quotes a school official as follows:

"Most of our people out here do not read too much about the legislature or any attorney general's rulings." School officials are "playing like the old law is still in effect, students are being warned, and parents threatened as they always have been."

The foregoing is a good illustration of what happens when there is defiance and obstruction of the law. Eventually, each local community decides what part of the law it will obey and thus the constitutional rights of citizens become subject to local whimsy.

The authority necessary to overcome obstructive State action now has to be invoked by the individual parents or by a private organization. This places upon private individuals and organizations—unfairly—the burden of securing constitutional rights. Chiefly this burden has been assumed by my own organization, the National Association for the Advancement of Colored People.

While the NAACP will not shirk its duty in seeking redress for those who are denied their civil rights, we believe the Federal Government has a responsibility to assure that constitutional rights are upheld. In this struggle for equal rights and constitutional liberties, the Federal Government can ill afford to be neutral. There is no ground for neutrality as between those who would obey the law and those who defy it.

A provision in the civil rights bill as submitted in 1956 and passed by the House in 1957 authorized the Federal Government on its own initiative to bring suits in cases involving denial of civil rights.

This provision, known as part III, was stricken from the bill by the Senate under threat of a filibuster. We reaffirm our support of part III and urge that the powers set forth in that section of the measure be enacted by the present Congress.

This provision is a part of the Celler bill, H.R. 3147, which has been endorsed formally by our association, along with the companion bipartisan Douglas bill, S. 810, in the Senate, as well as a similar bill in the Senate, S. 456, introduced by Senator Javits and cosponsored by Senators Keating, Case of New Jersey, Cooper, Scott, and Allott.

The Celler bill recognizes the necessity of supporting affirmatively the 1954 ruling of the Supreme Court and in its title VI it authorizes the Department of Justice, on its own initiative, to seek preventive relief to protect the constitutional rights of citizens in all civil rights situations, not merely in voting cases.

It has been argued that recent developments in Virginia have shown that no such authority is need for the Attorney General. I confess it is hard to follow this reasoning. The stage would never have been set in Virginia for resolving the issues which doomed "massive resistance" if there had not been litigation to make this possible.

The Federal Government, it has been maintained—and I refer to testimony before this committee as recently as this morning—should not act. Yesterday I believe the Attorney General said we had enough laws under which we could proceed, and that any more laws empowering initiative action on the part of the Government might aggravate the situation.

We should not start lawsuits. Then this morning the Secretary of Health, Education, and Welfare under questioning of the committee seemed to me to be saying that the United States should withhold any action by his Department or should not withhold funds from districts or States which continue to segregate, but should take such action only if a court order has been issued and been disobeyed.

One day the Attorney General says that we should not have any more legislation, and the Government should not act and should not aggravate, and the next day the Secretary of Health, Education, and Welfare says that we don't intend to do anything or we can't do anything or we don't interpret our role to be that to do anything except after court action has taken place.

It is a little difficult to follow this. Perhaps I should not say it is difficult. The question naturally arises if the Government does not initiate court actions and the Health, Education, and Welfare Department doesn't work until after court actions have been initiated and decided, who initiates the court actions? How do we get started on this business? And the answer, of course, is that we get started through the action of private citizens themselves. Thus they have the entire burden of attempting to see that the law of the land is executed.

Mr. RODINO. Mr. Wilkins, might I stop you right there a moment?

Mr. WILKINS. Yes.

Mr. RODINO. I recall that Representative Powell in appearing before this committee made reference to a reported article, something that he could not place his finger on when it was published, which stated that the Attorney General had requested the President by Executive order to cut off school funds. Do you know this? He states that this was in the newspapers and this was read by him in a newspaper.

I don't recall any such statement. I don't recall any such situation.

Mr. WILKINS. Mr. Chairman, I don't recall any such statement at the moment. There has been so much material on this issue, as I am

sure you know, statements and counterstatements and allegations, that I don't recall any publication of the Attorney General requesting the President to cut off school funds. Is that it?

Mr. RODINO. That's right, by Executive order, that the Attorney General had gone to the President and had requested that school funds be cut off, that an Executive order be issued to that effect. I don't recall having read it.

Mr. WILKINS. Attorney General Rogers or Attorney General Brownell?

Mr. RODINO. Attorney General Rogers, I assume, because he stated it was only recently, and I know that Chairman Celler was then presiding and he requested information so that we might clearly identify the article that Representative Powell was unable to put his finger on.

Mr. WILKINS. I would like to go back to my office and attempt to put the finger on it in my files, but I don't recall any such.

Mr. RODINO. If such is available will you kindly let us know? If you can't find any such information in your files, where I assume it would be, I would appreciate it.

Mr. WILKINS. I'd be happy to do that. Mr. Chairman, the position as I understood it to be outlined, as outlined by the Secretary of Health, Education, and Welfare; namely that they would not act until a definitive court order had come down ignores another area it seems to me of noncompliance, and that is one in which the States have made unmistakably clear through an announcement of policy or through legislation or administrative action that they do not intend to comply, and thus if no litigation is initiated by a private citizen, the Government would stand by helplessly while they pursued a policy, and I would like to cite just from the State of Georgia just by way of illustration, because there are a number of other States, but Georgia has legislation, for example, in the Georgia Public Laws of 1956:

Any peace officer who knowingly refuses or fails to attempt to enforce any law of this State requiring segregation or separation of the white and colored races in any manner or activity shall forfeit all retirement benefits, all disability benefits and all death benefits.

This is the penalty for any officer. This is to make sure that he enforces the State law. Then, of course, Georgia has a provision for the closing of schools where integration is ordered. Georgia has a further statute:

It has been made a felony punishable by 2 years in prison for any school official of the State or municipal or county system to spend tax money for public schools in which the races are mixed.

This is a Georgia law of 1955. Now, there is a provision here lastly which I would like to cite which seems to be aimed at a certain city in Georgia, and I quote:

Also the State patrol and bureau of investigation have been charged with the duty of entering any county or municipality "for the purpose of making arrests and otherwise enforcing any law of this State requiring segregation or separation of the white and colored races in any manner or activity" (Act 384, Georgia Laws, 1956).

This would seem to be aimed at the city of Atlanta, which has indicated in a number of ways that it is not quite in step with the rest of Georgia on segregation. For example, they have desegregated

their public golf courses in Atlanta, and they are now under lawsuit to desegregate the public schools, and they have indicated a willingness to do something about it and not to run away from it, much to the horror of the State government of Georgia, and this provision would seem to enable the State bureau of investigation to go into Atlanta, no matter what Atlanta should decide to do.

Mr. Chairman, I cite these only to indicate that if we place emphasis on the importance of title VI of H.R. 3147 it is because in the absence of such a provision in Federal law poor citizens in isolated communities must undertake themselves the legal action necessary to secure for their children the kind of public education declared to be their right under the Constitution.

It will be bad enough if these citizens were free to act to secure their rights, delayed though these might be by normal court procedure. But they are not free; as the record of the past 5 years clearly shows, they face a great variety of pressures, actual physical threats and economic reprisal, and except for the bold few they have a natural and understandable fear. Not only does the climate of opinion intimidate them but their State governments in which they have little or no representation or influence enact legislation and adopt administrative procedures designed specifically to prevent enjoyment of their rights.

Moreover, the States have proceeded against the only private organization which has come to the aid of these citizens. The NAACP has been the target of special punitive legislation tailored to restrict sharply its activities or to force it out of existence altogether. The objective, Mr. Chairman, is to render the Negro citizens and their children helpless and defenseless, so that neither they nor the NAACP, acting in their behalf may move to claim the constitutional rights awarded them by the decision of the Supreme Court.

It is not fair, not decent, not American, that parents who seek unsegregated education for their children in accordance with law, should find arrayed against them the massed powers of the States, including the treasuries composed in part of their own tax money.

In such a situation it is absurd to maintain that the Government of all the people of the United States should remain an inactive observer while courts are defied, human rights trampled, and the protagonists of simple justice under law are mangled in a grossly one-sided struggle.

We call upon the Congress to remedy this tragic state of affairs by enacting H.R. 3147 and its title VI.

Other provisions of H.R. 3147 are also desirable and necessary. Titles II and III would grant much-needed assistance to areas which wish to comply with the Court's order by providing information, guidance, counsel, and technical aid, as well as by offering grant-in-aid to carry on a desegregation program.

The whole Celler bill would not only benefit 2,500,000 Negro children still receiving segregated and inferior public education, but would redeem the promises of democracy.

The House has before it a package of civil rights proposals made by the administration and many of these are helpful.

We favor any proposal that would provide Federal penalties for the bombings of religious or school properties. We believe that any protection given such property should extend to residential and business property. The requirement that records in Federal election cases be

preserved and be subject to inspection by the Department of Justice is essential if voting rights are to be protected.

The extension of the life of the Civil Rights Commission should be granted, provided it is not used as an excuse to delay substantive civil rights legislation.

I believe a witness before this committee has testified to that effect, as follows:

"Well, I think we ought to wait until we see what the Civil Rights Commission has to report before we do anything further in this field." This is an illustration of using this Commission to delay the enactment of needed legislation. A statutory base for the Committee on Government Contracts would not contribute much unless the new agency were given enforcement power.

Of course, the amendment to Public Law 875 and 8174 to take care of the military personnel in certain situations will benefit the children of that personnel, but it will do nothing, for example, for the children of civilian personnel. The civilians who work at the Norfolk Naval Base, airbases, and whose children were put out of school would not be helped by this provision.

But of course any aid for children who are unfairly shut out of school simply to dodge the Supreme Court decision is a helpful one.

The chief disappointment of the administration program is the failure to endorse the principles of part III of the 1956 and 1957 civil rights bills, which it sponsored in those years.

The administration in 1956 used the part III language not only as its legislative base, but as the content of its civil rights plank in the national convention platform.

The San Francisco convention of the Republicans in 1956 consisted simply of this administration's civil rights bill including part III. This was their whole program in 1956, and it was their program in 1957. Now in 1959 the administration feels for some reason that it can't go along with part III. I don't believe the climate, Mr. Chairman, has improved to that degree or the situation of desegregation has improved to that degree. Certainly there has been no great acceleration in desegregation, and it is difficult to understand why the administration feels that the measure which it sponsored in 1956 and 1957, indeed behind which it ranged its whole party and staked its whole appeal on civil rights is now unnecessary.

Mr. RODINO. You certainly had no one disagreeing at that time as to the correct approach of part III, isn't that right?

Mr. WILKINS. No, there was no disagreement on it, sir. And they were enthusiastic. I don't know how enthusiastic they really were, but they chose to use this as their sole civil rights appeal in the 1956 campaign.

Mr. RODINO. And your organization supported that concept?

Mr. WILKINS. We did indeed.

Mr. HOLTZMAN. In fact wouldn't you say that old title III was the very heart of the civil rights program, the very heart of that more than any other individual part of the legislation.

Mr. WILKINS. Part III was the heart of the bill. It would have enabled the Government to do the things I have indicated and to lift some of the burden off of the individual citizen for securing these rights.

Mr. HOLTZMAN. Don't you think, Mr. Wilkins, that the climate of opinion that has been discussed here so often by the members of the administration, the Cabinet, with a view to improving the climate of opinion would be greatly aided by the enactment of part III or the substance thereof?

Mr. WILKINS. Indeed it would, Mr. Holtzman. I read in my morning papers just today, March 12, that the Department of Justice is proceeding against a blouse combine in the city of New York in the manufacture and sale of blouses, and the allegation is that certain persons in collusion with the union acted to control the production and sale of blouses in New York, New Jersey, Pennsylvania, Ohio, and so forth. Now the Attorney General and quite properly so, and I am making no disparagement here, he is concerned with a corner on the blouse market, if you please, but he does not feel that he should get a corner on the human rights market if I may put it that way.

This is the type of thinking that we are unable to understand.

We look on it not in anger but a little in sorrow.

Mr. MILLER. Mr. Wilkins, I noticed in your statement that you refer to many bills on this subject.

Have you read the bill introduced in the Senate by the Senate Majority Leader, Lyndon Johnson?

Mr. WILKINS. Yes, sir; I have, and I have a comment on it here.

Mr. RODINO. Mr. Wilkins comments on that further on in his statement.

Mr. WILKINS. In the next 20 lines, and I will be through, sir.

The bill introduced by Representative Dawson of Illinois embodies the important points of H.R. 3147 and is thus desirable. Representative Powell of New York has a number of proposals in this field, based upon his long experience. These includes a fair employment practice proposal and the need for such legislation remains.

The present unemployment picture reveals that more than twice as many Negro workers as white are unemployed and anything that helps to remove racial factors from this situation is welcome.

There is finally a bill which is not before this committee, but whose sponsor is of such eminence that its provisions might receive some attention from House members. I refer, of course, to S. 499, introduced by Senator Lyndon B. Johnson of Texas, the majority leader. There is nothing in S. 499 that is not better stated in the Celler bill and the McCulloch bill.

In addition, S. 499 presents a grave threat to civil rights advances that have been won as a result of court action. It suggests that constitutional rights may be bargained away under a so-called conciliation program. Our organization has gone on record opposing the Johnson bill.

We believe that bona fide attempts to handle the civil rights problem are set forth in most of the legislation that is before this subcommittee. Bills which fail to recognize that there has been a Supreme Court decision in favor of desegregation are unrealistic.

It would be better to have no bill at all than the Johnson bill.

Mr. RODINO. Mr. Wilkins, in view of the fact that there is a yea and nay record vote, I believe the committee would now recess for 20 minutes.

(Brief recess.)

Mr. RODINO. Mr. Wilkins, I take it that you have completed your prepared statement.

Mr. WILKINS. I have, sir.

Mr. RODINO. Mr. Rogers?

Mr. WILKINS. I would like to ask you if I could have placed in the record at the end of my remarks this summary comparison of the civil rights bills as made by the leadership conference on civil rights, executive committee meeting on March 2.

They have analyzed the bills that are before this committee.

Mr. RODINO. It will be placed in the record at this point.

(The summary comparison follows:)

Chart of key proposals in Celler-Douglas, administration, and Johnson civil rights bills of 1959

| Subject | Celler-Douglas bill (H.R. 3147; S. 810) ¹ | Administration bills (H.R. 4457; S. 942, 955-960) ² | Johnson bill (S. 499) ¹ |
|---|--|---|---|
| (1) Action by Justice Department. | Would give Justice Department power to initiate desegregation suits (as in pt III of 1957 bill), and also suits to restrain interference with execution of desegregation decrees and suits to restrain State action against anti-segregation activity. (VI). | Would make it a Federal crime to interfere with rights or performance of duties under school desegregation decrees. (I) | |
| (2) Desegregation Plans..... | Would give HEW Department power to draw desegregation plans. Justice Department could bring court action to require adoption of plan. (IV and V) | | |
| (3) Federal aid: (a) Technical assistance. | Detailed provisions. (II) | Limited but effective provisions. (VII) | |
| (b) Financial aid for desegregation. | Detailed provisions including construction costs. (III) | Limited provisions, not including construction costs. (VII). | |
| (4) Children of Armed Forces Personnel. | | Federal Government would build schools where local schools closed. (VI) | |
| (5) Conciliation Service..... | | | Would create independent conciliation service to alleviate differences arising out of Federal laws. (I) |
| (6) Findings..... | Condemns segregation. (I) | Declares responsibility of States to comply. (VII) | Deplores use of "force." (I) |
| (7) Obtaining election records..... | | Would require records to be kept 3 years. Justice Department could subpoena through Federal district court. (III) | Justice Department could subpoena records through 3-judge Federal court. (III) |
| (8) Civil rights commission..... | | Would extend life to Sept. 9, 1961; interim report by Sept. 1, 1959. (IV) | Would extend life to Jan. 31, 1961. (II) |

See footnotes at end of table, p. 342.

Chart of key proposals in Celler-Douglas, administration, and Johnson civil rights bills of 1959—Continued

| Subject | Celler-Douglas bill (H.R. 3147; S. 810) ¹ | Administration bills (H.R. 4457; S. 942, 955-960) ² | Johnson bill (S. 499) ¹ |
|---|---|--|---|
| (9) Government contracts----- | ----- | Would give statutory basis to present President's Committee on Government contracts. (V) | |
| (10) Bombing and vandalism: (a) Scope----- | ----- | Religious and educational buildings. (II) | Educational, religious, charitable, and civic buildings. (IV) |
| (b) Procedural provisions. | ----- | Would apply only to fugitive across State lines. (II) | Would apply to transportation of explosives across State lines. Justice Department could investigate where grounds to find such transportation. Could also investigate any bombing at request of State or local chief executive. (IV) |

¹ Numbers in parentheses refer to titles of the bill.

² Numbers in parentheses refer to titles of the McCulloch bill, H R. 4457.

Mr. HOLTZMAN. Did they include any conclusions from the summary, or is it just a summary?

Mr. WILKINS. It is a summary. It is a summary and comparison of the administration, the Johnson bill, the Douglas-Javits-Celler bill.

Mr. RODINO. Mr. Wilkins, I conclude from your statement that you believe, in effect, the United States should not remain as inactive as we have when a situation such as this arose that you have described, or is taking place, and as you say, while courts are defied, and do you believe that we could more properly remedy the situation by enacting Congressman Celler's bill which more adequately takes care of the situation?

Is that correct?

Mr. WILKINS. That is my belief, yes.

Mr. RODINO. And is that the position of the NAACP?

Mr. WILKINS. That is the formal position of our association, by action of its board of directors, a formal resolution.

We simply cannot see, Mr. Chairman, why the Government should stand to one side and permit citizens who are at a great disadvantage to carry on the battle for their declared constitutional rights.

This is not a test case to find out whether they have such rights or not. In such a test case, it would be understandable that a citizen, or citizens, would undertake the legal action necessary to establish the test. But this has already been determined. It is now the law of the land. It is an interpretation of the Constitution. Moreover, it is in harmony with the declared national policy of the United States; a number of other areas, the area of the utilization of manpower in the military services; the area of employment opportunities.

The national policy of the United States is against racial or religious segregation or discrimination.

Now comes the highest court of the land and says that in the area of public school education, for which the funds are provided by the people themselves, and the system is administered by the people, there shall be no discrimination.

If there is discrimination, it will be a violation of the Constitution.

In such a situation, we are unable to understand how the Government that we commissioned takes the position that it should observe this matter and not aggravate it, and not enter into it except under certain antiseptically determined conditions.

Mr. RODINO. Well, Secretary Flemming's testimony suggested that only when the courts have taken certain action then should there be triggered action on the part of the Federal Government, in order to assist.

Now, of course, that is the interpretation according to them, the Supreme Court ruling as well. No other action should be taken by the executive department, at least unless such a situation occurs.

Of course, just as you say, the Federal Government could be an inactive observer. There would be nothing that we would be able to do,

Now, do you feel that would be the position under the McCulloch bill, that the Federal Government would be unable to move under those situations?

Mr. WILKINS. Well, our general position is as you have stated, and what is needed to correct it is legislation that will enable the Government to move under its own initiative; part 3, or some substantial version of that.

Any piece of legislation that contains the essential points of part 3 will permit the Government to act as we believe it should act. I don't say specifically that the Department of Health, Education, and Welfare, and I know this is a big Government; it is very complex and you have to have rules and regulations, but I am speaking, when I say the Government, I mean all of the Government should be able to, and any legislation that permits it to act would, in our opinion, remedy the situation.

Mr. RODINO. You alluded to the extension of the life of the Civil Rights Commission and you say it should be granted with a proviso.

Do you have any ideas as to the length of time that the extension might be granted?

Mr. WILKINS. Well, Congressman Rodino, we have no quarrel with the length of extension suggested in the legislation. We feel that the Civil Rights Commission, this is a vain hope, I assume, that in some way it could be strengthened while its term was extended to remedy some of the weaknesses that were apparent to those of use who saw the thing in 1957.

As long as the Commission's life extension is not used as an excuse for not enacting civil rights legislation, or not taking any forward steps in this matter, we see no objection to it.

Mr. RODINO. Dr. Hannah indicated that their report before the Commission would be ready, at least that enough of their investigation was completed, to submit a report by the end of 1959. However, he confined his remarks to the area of education, housing, and voting, and he did indicate that there were other avenues that they might look into.

That raises this point, related avenues. Do you believe this is also necessary?

Mr. WILKINS. Oh, by all means. I think the Commission, for example, has performed a service for a great many millions of American citizens who were unaware of the details of disfranchisement by its hearing in Montgomery, Ala., last December, and it uncovered, so far as we are concerned, no new story, but for the American people who have somehow come to believe that everything is moving along fine and things are not as bad as they are painted, the story that the Commission uncovered in Montgomery, the denial of voting rights to Negro citizens there, was a shocking one, and I would say, sir, that this one performance by the Commission was worth all of the labor that it took to bring it into being.

Mr. HOLTZMAN. Mr. Chairman, your point is, and I hope I state it correctly, that there is nothing inconsistent about the Commission continuing to perform its obligation and the Congress obligation.

Mr. WILKINS. Precisely. As long as the Congress does not say, we will wait until the Commission makes a report before we will do anything in that area.

Mr. ROGERS. Mr. Wilkins, in looking at your statement, which I didn't have the privilege of seeking this morning, I understand you would rather have H.R. 3147, which was introduced by the chairman, rather than H.R. 4457, the one introduced by Mr. McCulloch, which is known as the administration bill.

Mr. WILKINS. Well, Mr. Rogers, part of the difficulty of sorting these things out is that in the House I believe this measure was introduced all in one piece, not so.

The McCullouch bill is all one bill.

In the Senate it is seven separate bills. We believe, generally, sir, that the Celler bill in the House, and the companion bipartisan Douglas bill in the Senate say better the things that we wish to be said than the administration bills say, and this is, as I attempted to indicate in my testimony, this is not to condemn the administration's bill outright, or to cast it into outer darkness, or anything of that sort.

It is to say that the Celler bill is superior in so many ways, particularly because of its inclusion of the language of the old part 3 of the 1957 bill.

The administration bill falls short of that, although there are plenty of other good points in that package.

Mr. ROGERS. That will be all, thank you.

Mr. MILLER. Mr. Wilkins, first let me say that I have always found you to be entirely reasonable and cogent in your approach to this problem.

I am sure you recognize that there is a vast difference when you are faced with a piece of legislation in the Congress between the idealistic accomplishment we would like to have and the realistic approach to what we might be able to secure, regardless of whether or not most people of good will are certainly in favor, in both political parties, I am sure, of the final acquisition of constitutional rights for all.

Do you agree with that statement?

Mr. WILKINS. Oh, indeed I do.

Mr. MILLER. Now, I noticed that you quoted from the Republican platform of 1956. What was the Democratic platform of 1956 concerning civil rights?

Mr. WILKINS. Oh, I wasn't quoting for the purpose of comparison.

Mr. MILLER. I know what you were quoting for.

Mr. WILKINS. You recall that I quoted because it appeared—not that it appeared—it is true that the administration, which is the same administration that was in 1956, has abandoned, apparently, its belief in part 3, which it had in 1956.

Mr. MILLER. All right, I want you to think with me, as a reasonable person, the problem that we are facing here, the task we are trying to accomplish.

You said that the platform of the Republican Party in 1956 included part 3, or title 3 of the bill as reported from the House and voted and passed by the House in 1957.

Is that right?

Mr. WILKINS. That is right.

Mr. MILLER. Now, if you will answer my question, please.

What was the Democratic platform or plank in the platform concerning civil rights in 1956?

Mr. WILKINS. Well, I don't recall now because it wasn't germane to this particular testimony.

Mr. MILLER. You mean as executive secretary—

Mr. WILKINS. It wasn't part III, Mr. Congressman.

Mr. MILLER. You mean that as executive secretary of the National Association for the Advancement of Colored People, you don't know what was the 1956 Democratic platform on the question of civil rights?

Mr. WILKINS. I am saying to you that I do not recall 3½ years ago what the exact text of the Democratic platform was.

Mr. MILLER. Well, never mind the exact text.

Did it, to the best of your recollection, contain language which included or incorporated title III?

Mr. WILKINS. No.

Mr. MILLER. It did not?

Mr. WILKINS. No.

Mr. MILLER. It was not as strong on the question of civil rights as was the Republican platform, was it?

Mr. WILKINS. In 1956?

Mr. MILLER. In 1956.

Mr. WILKINS. In 1956, there was as much difference between the Republican and Democratic platforms in civil rights, as the thickness of this piece of paper I have in my hand.

Mr. MILLER. Then I am sure you can answer my question.

Did the Democratic platform of 1956 include or incorporate, as did the Republican platform, so you say, include or incorporate the provisions in substance at least, of title III?

Mr. WILKINS. Well, the Democratic language was not the language of part III.

Mr. MILLER. Well, then, which platform did you prefer?

Mr. WILKINS. We didn't support either one.

Mr. MILLER. Which did you prefer on the question?

Mr. WILKINS. We don't support platforms.

Mr. MILLER. But which plank, as the executive secretary of the National Association for the Advancement of Colored People did you prefer, the Republican or the Democratic?

Mr. WILKINS. Well, let me see.

In San Francisco, I think I issued a statement saying that the Republican platform was a sliver, I think the word was a "sliver," better than the Democratic platform.

Mr. MILLER. Now, in 1957 the civil rights bill, incorporating or including title IV passed the House, it then went to the Senate and its history from there I am sure you are familiar with.

Mr. WILKINS. Yes, yes.

Mr. MILLER. And I think you know in the Senate who was responsible for deleting title III. Do you know that?

Mr. WILKINS. Now do you mean man by man?

Mr. MILLER. Well, you know in general. I don't think you really are having as much difficulty as you pretend in following me, Mr. Wilkins.

You know in substance the people in the Senate in 1957 who were responsible for the deletion of title III.

Mr. WILKINS. I was trying to recall the rollcalls and that is a little difficult.

Mr. MILLER. It is.

Mr. WILKINS. Yes, it is.

Mr. MILLER. Well, would you like to refresh your recollection and supply it to the committee?

Mr. WILKINS. Yes, I will be very happy to do that.

Mr. MILLER. Thank you.

Mr. ROGERS. All we have to do, Mr. Miller, is to look in the record.

Mr. MILLER. But I would like to have him refresh his recollection. Mine is clear on that.

Mr. HOLTZMAN. Then why don't you tell us, Mr. Miller?

Mr. MILLER. Now, Mr. Wilkins, I noted in your statement on page 5 where you not only refer to Senator Lyndon Johnson, but you also refer to him as a person of such eminence, and as a matter of fact he is the majority leader of the Senate, is he not?

Mr. WILKINS. Yes, he is.

Mr. MILLER. And the legislation which he introduced himself on the question of civil rights is not, in your opinion, as good or as strong as the administration's bill, is it?

Mr. WILKINS. Oh, it certainly is not.

Mr. MILLER. All right.

Mr. WILKINS. This was clear in my testimony.

Mr. MILLER. Now, we are getting back to my problem here of a realistic approach because he is still the majority leader.

Mr. WILKINS. Yes.

Mr. MILLER. And has the ability to accomplish. Now, you remember back when this bill was in the Senate in 1957, and just let me read you an interesting statement. This is from Senator Neuberger from Oregon, and he said this:

On August 14, 1957, a letter reached my desk from Mr. Roy Wilkins, executive secretary of the National Association for the Advancement of Colored People.

Now that the illustrious Walter White has unfortunately gone from amongst us, if any American of today can be regarded as Mr. Civil Rights, he is Roy Wilkins.

Mr. Wilkins' letter said in part, and I quote again:

We remain convinced here that despite the fact the Senate has passed a weaker version of the bill than the House, the debate has served the purpose and that if this bill, weak though it is, should be approved, with certain modifications by both Houses we will have an instrument that will be of some service in approaching the solution to the problem.

Do you remember sending that letter?

Mr. WILKINS. I certainly do.

Mr. MILLER. Do you realize that as a matter of fact, and because you and Walter Reuther and others took that position in 1957 and publicly endorsed the weak version, without title III, that you pulled the rug out from under the conferees who were standing pat for title III?

Mr. WILKINS. Now, now, now, you said when you started out that we all wanted to be reasonable.

Mr. MILLER. That is right.

Mr. WILKINS. You would have to go back there, Congressman Miller.

Mr. MILLER. I will go back to it.

Mr. WILKINS. No, I mean in the halls and in the offices of the Senate between July 10, 1957, when Senator Russell made his "Bayonets at the throat of the South" speech.

Mr. MILLER. I remember that.

Mr. WILKINS. And early August when the final hassle was on.

As a matter of reasonable history, the truth of who did what to the civil rights bill of 1957 is not written in the rollcalls, nor is it written in the postmortem statements of adjustment that might have been issued on both sides.

The murder of the civil rights bill of 1957 is the crime for which a great many people in both parties will have to stand trial.

In my book, and I have been around, in and out of this Capitol, a very long time, in my book the attempt of some persons in both parties, and I am leaving out the House now because the House had a record on this bill that was untouched, but the attempt to fasten the responsibility for the final form of the civil rights bill of 1957 on the people who had worked for a strong civil rights bill was one of the worst, in my view, the most transparent political trick that has come down the pike in a long time.

I don't feel here, and I don't think it would serve any good purpose to go back and to review what we consider the true version of the death throes of the 1957 act in the early days.

Mr. MILLER. But there is a statement in the archives here in Washington to the effect that the past is prologue, and in New Deal language that means you haven't seen anything yet.

What I am trying to point out to you is that.

Mr. ROGERS. You should say in the Fair Deal. The New Deal is long gone.

Mr. MILLER. I will accept the modification.

What I am trying to point out to you is that this injunctive process or injunctive procedure which was in the bill as finally passed as relating to voting cases and it did relate to voting cases, did it not?

Mr. WILKINS. Yes.

Mr. MILLER. As passed, the 1957 bill?

MR. WILKINS. Yes.

MR. MILLER. Now, the McCulloch bill makes one step forward from that, does it not, in that it now extends what would have been title III, let us say, at least to the school desegregation cases. At least it extends title III into one more area, if not all areas, as you wish to have it.

MR. WILKINS. Yes, but I am trying to recall the language. It is still restricted though, is it not, sir?

It doesn't provide entry and activity of the Government in all desegregation cases.

MR. MILLER. The criminal action suits.

MR. WILKINS. I don't think it is entirely free as the part III language was in the 1957 act.

MR. MILLER. I agree with that. I am talking about title I, construction of court orders.

MR. WILKINS. If we are willing to let August 1957 go down the drain because you don't have the time for me to tell you the story as I know it—

MR. MILLER. No, that is not the case.

MR. WILKINS. Or as I believe it to be and I am sure if Walter Reuther were here there would be 10,000 more words said on the matter.

MR. MILLER. I say you were very conservative.

MR. WILKINS. Yes, but the truth of the matter is, that the people who wanted the civil rights bill in 1957 had to take what came out of the hopper and grin about it, even though they had to put toothpicks in their jaws in order to hold out a grin and be satisfied.

That was bad enough, but then to turn around and have the people say "you would have gotten stronger if you hadn't accepted something which we forced you to take"—this runs my cup over and never fails to do so.

MR. MILLER. You think that Mr. Celler, the chairman of this committee, wouldn't have stood out as a conferee all day for the stronger civil rights bill?

MR. WILKINS. Of course he would have, and the House conferees would have, when what happened in the Senate did hold down what the House tried to do, and there is no doubt about that. But this was not the deciding factor either.

The House conferees could have stood pat all day and the Congress would have adjourned and we would have had no bill.

MR. MILLER. That is my point.

MR. WILKINS. What I am trying to get from you is this: We are faced here with a situation where I think, if I recollect your testimony, you say that at least the administration bill does something. You don't think it does as much as the Celler bill, but you said you didn't wish to discard it completely.

In other words, you support the bill as far as it goes?

MR. WILKINS. Yes.

MR. MILLER. But in your judgment, it doesn't go far enough?

MR. WILKINS. That is right.

MR. MILLER. In the face of the fact that that bill is a stronger bill, according to your own testimony than the bill introduced by the leader of the Senate, from a realistic standpoint do you think there

would be any chance, any more chance in 1959 of getting through the Senate—I don't think you are going to have any trouble in the House, mind you—any more than you did in 1957.

Do you think you are going to have a better chance? Do you feel so from a realistic standpoint now? Do you feel today if we pass a stronger bill than the McCulloch bill which would be a far stronger bill than has been introduced in the Senate by the leader of the Senate, do you think such a bill could pass the Senate or would we be right back where we were in 1957?

Mr. WILKINS. Well, let me answer in this way: With all deference to the gentleman of eminence whom I name, and to his powers, personal and official, I don't believe his bill will be passed.

Mr. MILLER. I don't think so either, but do you think a stronger bill than the McCulloch bill or the administration bill can pass the Senate?

Mr. WILKINS. I think there is a chance that it might.

Of course, we operate on the theory, Mr. Miller, that you have to ask for the maximum in order to get the minimum.

Look what we got in 1957, and we can't ask for even the middle.

Mr. MILLER. In other words, what you really are trying to say is that you are asking for the Celler bill but you hope to get the McCulloch bill?

Mr. WILKINS. No, I hope I get the Celler bill.

Mr. RODINO. What you are saying is that you ask for as much as possible and hope to get it.

Mr. WILKINS. I hope to get it and work to get as much, but I am depending on Congressman Miller to help get it.

Mr. RODINO. We hope it does. The complexities haven't changed a bit since 1957 in the Congress, and we are going to be able to do that.

Mr. WILKINS. Mr. Chairman, you have the prerogative of making that statement.

My statement is that we are happy to have support for maximum. The maximum is the Celler bill from any political party that wants to give us the votes.

Mr. RODINO. I think that is a very fair statement.

Mr. MILLER. It will be interesting to see the rollcall, won't it? Personally, I can hardly wait.

Mr. WILKINS. That is right.

Mr. HOLTZMAN. Mr. Wilkins, I don't know if I find myself in the role of rehabilitator or not, but my good friend, Mr. Miller wanted to know, and it is all past history, and I do agree that this is a bipartisan illness and we all share in the responsibility for what has been going on, but Mr. Miller wanted to know who is responsible for the deletion of title III and it is difficult for you to answer.

He spoke of a gentleman of great eminence, and I want to mention another eminent gentleman, equally eminent, if not more so, whose bill today is lacking in title III, albeit, that the party platform called for it.

I think that the important thing today is what are we going to do with the current bill, and never mind what happened before because no useful purpose can be served by it.

I assume that is your position too?

Mr. WILKINS. That is my position. I don't want to rake up 1957. The memories are not very pleasant.

Mr. MILLER. I commend you on a very excellent statement.

Mr. RODINO. I want to add my commendation too, Mr. Wilkins. You made a very fine presentation.

Thank you.

We will next hear from Mr. Will Maslow, of the American Jewish Congress.

STATEMENT OF WILL MASLOW, AMERICAN JEWISH CONGRESS

Mr. RODINO. Mr. Maslow, we are happy to have you here today. I think you have a printed statement, do you not?

Mr. MASLOW. I don't propose, Mr. Chairman, to read it all.

I would merely ask leave to put it in the record and with your indulgence, to spend a few moments summarizing it or perhaps highlighting it.

Mr. RODINO. We will be happy to insert the statement in the record at this point, and you may comment on it or make such statement as you wish.

(The statement referred to is as follows:)

STATEMENT OF WILL MASLOW ON BEHALF OF THE AMERICAN JEWISH CONGRESS ON PENDING CIVIL RIGHTS BILLS

The American Jewish Congress is an organization of American Jews that has long been concerned with efforts to attain the goal of full equality for all Americans, a goal implicit in the philosophy of our democratic institutions but not yet fully realized. Our organization opposes all forms of discrimination based on race, religion, or national origin not only because they are offensive to the principles embedded in our religious heritage but also because of the evil consequences they have for all our fellow Americans. We greatly appreciate this opportunity to present to this committee our views on the civil rights bills now pending in the U.S. Congress. It is particularly gratifying that hearings on this pressing issue have been called so promptly. We hope that they can be completed with dispatch and that appropriate legislation can be brought out of committee in time for adoption by the House of Representatives early in the present session.

INTRODUCTION

The Civil Rights Act passed by the U.S. Congress at the end of its 1957 session was a historic advance primarily because it breached the barrier to civil rights legislation that had stood for 82 years. It was, however, only a first step, indeed, a weak first step. It dealt with civil rights issues only in very gingerly fashion. Hence, the demand for effective legislation continues unabated. It is heard from almost all shades of opinion. It is supported by almost every political grouping.

The time has come for legislation designed to deal with the civil rights problem in depth. This committee should not concern itself solely with trivia—with mere marginal manifestations of the core difficulties. The insistent demand for civil rights legislation stems from the fact that the need to achieve equality is the cardinal domestic problem of the Nation. The decisions of this committee must be based on that fact. The civil rights bill ultimately enacted by this Congress must fulfill the responsibility of the Federal Government to curb discrimination and segregation that violate our basic law.

It is no light matter to undo a century or more of unequal treatment. Changing deeply entrenched patterns of racial segregation is a task demanding the full resources of the Nation. That task, unfortunately, has been greatly complicated by open resistance on the part of some State governments. Worse, unprincipled defiance of court decisions by a number of high State officials has fostered an atmosphere of lawlessness that has culminated in extreme forms of violence, including repeated resort to the bombing of schools, synagogues, and

homes. The issue posed by this defiance is not how fast we shall move but rather whether the equalitarian commands of the 14th and 15th amendments to the Federal Constitution shall be nullified.

That issue should be faced by this committee. The Federal Government has a clear responsibility to enforce the Constitution under which it operates. The vindication of constitutional rights cannot be left to individuals. The Constitution creates individual rights for the benefit of the people as a whole. And it expressly gives to Congress the power to adopt legislation to enforce its commands. Responsible exercise of that power, we submit, requires this committee to recommend a civil rights bill realistically using the full powers of the Federal Government to end State-imposed racial segregation as soon as possible.

THE PENDING BILLS

We urge this committee to report out a single comprehensive civil rights bill rather than separate bills dealing with specific topics. Knowing the realities of congressional rules, procedures, and customs, we cannot assume that more than one civil rights bill will be enacted at this session of Congress. Hence, whatever bill is approved by this committee should contain all the provisions that are needed to deal with the subject. Bearing this in mind, we shall here discuss all the significant civil rights bills now pending in Congress, whether or not they are before this subcommittee or even before the House of Representatives. This subcommittee can amend any of the comprehensive bills before it so as to include the desirable features of any of the pending bills.

The principal civil rights programs before Congress today are (1) the proposals made by President Eisenhower, which have been embodied in the McCulloch bill (H.R. 4457) and seven bills in the Senate (S. 942, 955-960); (2) the less comprehensive but more far-reaching proposals made in the Celler-Douglas bill (H.R. 3147, S. 810); and (3) the minimum proposals made in the bill sponsored by Senator Lyndon Johnson (S. 499, not yet introduced in the House of Representatives). The provisions of these three programs are compared in a chart attached as an appendix to this statement.

We discuss here the proposals made in these three programs, as well as a number of the bills that have been introduced on specific subjects. The administration package contains a number of useful proposals. As a whole, however, it merely nibbles at the edges of the civil rights problem. It would leave the burden of combating States efforts to maintain racial segregation upon private citizens and organizations, with the Federal Government merely enforcing the rules of fair combat. The Johnson bill fails to come to grips with the civil rights problem. With its stress on conciliation, it would create the impression that the question whether the States must end enforced segregation is still open. The Celler-Douglas bill, we believe, follows a sound approach. We urge its approval, with the amendments and additions outlined below.

In the following pages, we take up the specific issues with which the pending civil rights bills deal, compare the various proposals and outline our recommendations.

I. EQUAL PROTECTION OF THE LAWS

The most important feature of the Civil Rights Act of 1957 was that it gave the Federal Government effective power to enforce a constitutional command—the prohibition of State action curbing the right to vote. Under part IV of that act, the Department of Justice has the power to bring equitable actions to restrain State officials from violating any citizen's right to vote in Federal elections and from discriminating in any State election on the basis of race or color. By taking this action, Congress recognized that enforcement of constitutional guarantees is a matter of concern to the people as a whole. It cannot be treated merely as a private matter to be disposed of in litigation between an individual citizen and the State official who denies him his basic rights.

When the 1957 bill was approved by this committee and by the House of Representatives, this principle of Government responsibility for constitutional enforcement had much broader scope. Part IV of that bill, as in the final act, applied only to voting rights. Part III, however, would have given the Department of Justice power to bring similar equitable actions to enforce the right to equal protection of the laws guaranteed by the 14th amendment. Unfortunately, that provision was stricken from the bill in the Senate.

On what possible basis can this omission be justified? There is no question as to the binding nature of the equal protection clause of the 14th amendment.

Neither can there be any question as to the responsibility of the Federal Government to prevent widespread disregard of constitutional requirements. That obligation was recognized and formulated into law by part IV of the 1957 act. It applies no more strongly to the 15th amendment than to the 14th. Again there can be no question as to the need for protection of 14th amendment rights. The open defiance of the requirements of that amendment by a number of State governors and legislatures is a matter of public record. Finally, there can be no question that private litigation is as limited in efforts to remedy persistent negation of the equal protection clause as it is to prevent denial of the right to vote.

We therefore urge that this committee take as its principal obligation in preparing a civil rights bill for 1959 the approval of effective legislation giving the Department of Justice power to enjoin violations of the equal protection clause of the 14th amendment. We believe that this has been done in section 601 of the Celler bill. That section provides that, whenever the Attorney General receives a signed complaint that any person is being deprived of the right to equal protection of the laws by reason of his race, religion, or national origin, the Attorney General may institute a civil action against any person who is threatening to deprive any other person of equal protection under color of State or local law. (The provision permitting the Attorney General to act only on receipt of a signed complaint should allay the often exaggerated fear that the Department of Justice would be encouraged by this proposed law to disrupt otherwise peaceful situations.)

This section further provides that the Attorney General shall act only when he certifies that the person whose rights are threatened is unable to seek effective legal protection. Paragraph (b) of this section provides that a person would be regarded as unable to seek protection not only when he is unable to bear the expense of litigation but also when he is threatened with reprisals if he institutes a suit. We believe that these restrictive provisions are undesirable. In effect, the Attorney General would be able to act only if he declared the persons involved to be paupers or if he made an administrative finding that force and duress were being exerted strongly enough to result in effective intimidation.

It must be borne in mind that the Federal Government has the responsibility of acting in this area not because individuals need assistance but because the public as a whole has an interest in enforcement of the equal protection clause. That interest should be vindicated whenever the powers of the Federal Government are properly invoked.

We therefore suggest that this committee include in the civil rights bill it reports a provision modeled on section 601 of the Celler bill but without paragraph (b) and with the following words stricken from paragraph (a): "and whenever the Attorney General certifies that, in his judgment, such person or group of persons is unable for any reason to seek effective legal protection for the right to the equal protection of the laws" (p. 19, lines 11-15).

II. ENFORCEMENT OF COURT ORDERS

Events in Little Rock, Ark., Clinton, Tenn., and elsewhere have made it all too clear that there are small but determined groups who are prepared to carry their defense of racial segregation even to the point of disrupting the due performance of obligations under court orders. We urge this committee to approve provisions making such conduct a crime and also empowering the Federal Government to restrain it through appropriate equitable actions.

We further suggest approval of section 101 of the McCulloch bill, which would make obstruction of court orders a crime, with appropriate changes to give it the same scope as section 601 of the Celler bill.

III. OTHER INJUNCTIVE RELIEF

The Celler bill contains two additional provisions giving the Department of Justice power to bring equitable actions dealing with civil rights. Under section 603, the Attorney General, on receipt of a signed complaint, could bring an equitable action against any person who, under color of State or local law, was depriving any person of any right guaranteed by the 14th amendment because that person had opposed denial of equal protection of the laws to others. This provision is prompted by the measures taken by a number of Southern States to suppress organized antisegregation activity, particularly by the National Association for the Advancement of Colored People. The measures taken up to the

spring of 1957 are summarized in the report prepared by this organization, "Assault Upon Freedom of Association," a copy of which accompanies this statement. Such measures are still being enacted. As recently as February 25 of this year, Governor Faubus of Arkansas signed into law a bill prohibiting all State agencies, including school districts from hiring members of the NAACP.

These curbs on the basic constitutional right to freedom of association are manifestly unconstitutional (*NAACP v. Alabama*, 357 U.S. 449 (1958)). The Federal Government should be given power to see that that right is preserved. We therefore urge approval of section 603 of the Celler bill.

Section 604 of that bill would authorize the Attorney General to intervene, with all the rights of a party, in any action brought in a Federal court to prevent deprivation of equal protection of the laws because of race, religion, or national origin. This section would eliminate whatever doubts there may be as to the Government's right to intervene in such cases and would also make clear to the Department of Justice that the Congress approves such intervention.

IV. TECHNICAL ASSISTANCE

The public interest in bringing about rapid compliance with the Supreme Court's decisions condemning enforced racial segregation need not depend exclusively on statutory restraints such as those described above. The Government can also facilitate desegregation by placing its resources at the services of State officials endeavoring to comply with their constitutional obligations. It can help them overcome the obstacles they unquestionably face. A number of proposals to that end have been made in the pending bills. We consider, first, the provisions for technical assistance on desegregation.

Both the McCulloch and the Celler bills contain provisions empowering the Department of Health, Education, and Welfare to assist school districts in dealing with problems of desegregation. They recognize that these problems are common to school districts all over the South and that a Federal agency can collect and disseminate information on how various school officials have successfully dealt with the problems they face.

Section 707 of the McCulloch bill provides that the Commissioner of Education shall collect and disseminate information on the progress of desegregation in public schools. He would be directed, upon request, to provide information and technical assistance to State and local officials to aid them in developing desegregation programs. Also upon such request, the Commissioner would be empowered to initiate and participate in conferences dealing with educational problems arising out of the desegregation decisions.

Broader and more detailed provisions on this subject are contained in sections 201 to 204 of the Celler bill. Under these sections, the Secretary of Health, Education, and Welfare could give technical assistance to State and local officials by disseminating information that would foster understanding of and compliance with the Supreme Court decisions. This assistance could be given by making available information on cases of successful desegregation, by calling local, State, and regional conferences to discuss ways of ending segregation, by appointing local, State, and regional advisory councils, by reporting semiannually to Congress on progress in eliminating segregation and by such other means as the Secretary deems appropriate. The Secretary would be empowered to employ a staff of specialists whose services would be made available to school officials. An appropriation of \$2,500,000 per year would be authorized for the next 5 years.

We believe that the broader provisions of the Celler bill are reasonable and desirable and we therefore urge approval by this committee of sections 201 to 204 of that bill.

V. GRANTS IN AID

The Federal Government can give more substantial aid to school officials desiring to end segregation by helping to finance some of the expenses that integration plans are likely to entail. Such provisions are contained in both the Celler and McCulloch bills, with the Celler bill provisions, again, being broader.

The relevant portions of the McCulloch bill are contained in sections 701 to 707. They would authorize appropriations, without specifying the amount, for two principal purposes: (1) to help local educational agencies finance supervisory, administrative, social work, and other nonteaching professional services needed in order to accomplish desegregation; and (2) to help State agencies finance the developing and carrying out of desegregation programs, including

technical assistance to local educational agencies. Funds would be apportioned to the various States that had segregated schools in 1953-54, on the basis of school attendance during that year. The funds would be available only on a matching basis; that is, the States would have to provide an equal amount of money. In order to obtain money, a State would submit a plan to the HEW Department containing certain specified administrative features. If a State failed to submit a plan, grants could be made directly to a school district—if the State consented or if the State had indicated that “it assumes no responsibility with respect to the desegregation of public schools.” Appropriations would be authorized only through the fiscal year ending June 1961. The Secretary would be directed to report to Congress by January 1961 with his recommendations as to extension or modification of the program.

The aid provisions of the Celler bill are contained in title III, sections 301 to 304. The Secretary of Health, Education, and Welfare would be empowered to make grants to States or local units which maintained segregated schools in May 1954, to assist in meeting the costs of additional educational measures necessitated by the process of ending segregation. Grants could be made for employing schoolteachers, the cost of giving training courses, the cost of employing specialists, and other costs directly related to eliminating segregation. Grants could also be made for school construction costs where necessary to make it possible to carry out a desegregation plan without lowering educational standards. Finally, grants could be made to replace State payments to a school district that were withdrawn because the district was starting to end segregation. Grants would not be made on a matching basis and there is no provision for apportionment among the States. A separate section would permit grants to universities to help finance training courses. Appropriations of \$40 million per year for 5 years would be authorized.

We believe that the McCulloch bill defines too narrowly the purposes for which aid could be given. School districts should be aided not only in hiring nonteaching professionals but also in the other respects detailed in the Celler bill.

We also oppose the matching provisions in the McCulloch bill because they would substantially impair the effectiveness of this kind of assistance. The Federal Government should affirmatively encourage school districts to bring themselves into compliance with constitutional requirements. This can be done by easing their very real financial problems. But there will be little encouragement if the Congress places additional burdens on the school districts. Since the total sums likely to be involved in this program are relatively small, the Government should make this money available without requiring matching.

We therefore urge this committee to approve the grants-in-aid provisions of the Celler bill.

VI. FEDERAL SCHOOLS

Title VI of the McCulloch bill deals with a separate aspect of the school problem. The Federal Government has recognized that it has a responsibility to see that adequate schools are available when Federal operations bring a large number of families into a new area. Accordingly, a number of laws have been adopted to insure schooling for children of persons brought into new areas because of service in the Armed Forces or employment at Federal installations or plants holding large Federal contracts (20 U.S.C. secs. 236-244).

In part, this is accomplished by the Federal Government operating schools on Federal property. However, the larger part of the program consists of grants to the States to enable them to build the necessary schools. When schools are shut down by State governments to frustrate compliance with a court desegregation decree, the children of families brought into the area by Federal operations may be deprived of schooling.

Under the McCulloch bill, if children of members of the Armed Forces were deprived of schooling because the public schools had been shut down as a result of official action, the Federal Government would be empowered to build the necessary schools on Federal property. An additional provision would permit the Federal Government to save the expense of building new schools by allowing it to take over school buildings constructed with Federal funds. However, this would apply only to schools built after the bill was passed and hence would not go into effect for some time.

We endorse these provisions but suggest that they do not go far enough. The bill should not be limited to children of Armed Forces personnel. Our defense

effort is threatend when perspective employees of defense plants are discouraged from taking jobs because no schools are available for their children.

We therefore urge this committee to approve title VI of the McCulloch bill but with amendments to make it apply to all children brought into an area because of Federal operations.

VII. CONCILIATION EFFORTS

There is one other function the Federal Government can perform in facilitating the processing of ending segregation. It can make available the services of its representatives to conciliate differences among elements in the population as to how to proceed with integration.

Conciliation, of course, can help only among those groups that are prepared to cooperate. We must assume that those who publicly proclaim their intention to maintain racial segregation despite the requirements of the Constitution are not prepared to conciliate their differences with those who believe in upholding the rule of law. Efforts to "conciliate" between these two groups are not likely to be fruitful.

While conciliation efforts by the Federal Government should be encouraged, we do not believe that this requires detailed legislation or the establishment of any new agency. The provisions for technical assistance in the McCulloch and Celler bills, already described, would provide a procedure under which representatives of the HEW Department could assist in bringing different groups together. We suggest, however, adoption of a clause specifically empowering them to do so, along the lines of section 401 of the Celler bill, but worded somewhat more broadly.

As this committee knows, a detailed proposal to establish a Community Relations Service has been made by Senator Lyndon Johnson in the four-part civil rights bill (S. 499) he introduced in the Senate. (No corresponding bill has been introduced in the House of Representatives.) Under title I of that bill, the proposed Service would provide conciliation assistance in any community where disagreements regarding the laws or Constitution of the United States, or any difficulties that might affect interstate commerce, were threatening to interrupt peaceful relations.

We believe this proposal misconceives the function of conciliation. Government efforts to reconcile the differences arising out of Federal statutes and constitutional requirements must be directed primarily at obtaining compliance with the law as interpreted by the courts. An independent agency directed only to conciliate with a view to allaying disagreements is not likely to achieve this purpose. The conciliation function should be carried out as part of a broader mandate to a Federal agency to facilitate desegregation. It is for this reason that we have recommended above that responsibility for conciliation efforts be given to the HEW Department along with provisions for technical aid and other forms of assistance to school districts contemplating integration.

VIII. CONGRESSIONAL FINDINGS

The Celler and McCulloch bills, as well as the bill introduced by Senator Johnson, each contain a set of proposed congressional findings concerning the situation resulting from the Supreme Court decisions condemning enforced racial segregation. Section 102 of the Celler bill contains the most detailed findings, starting with the firm statement that the Supreme Court decisions "express the moral ideals of the Nation." Section 701 of the McCulloch bill makes it plain that, under the Supreme Court decisions, State and local agencies formerly operating segregated facilities have an obligation to end segregation. Section 101 of the Johnson bill merely notes that the requirements of the Constitution have given rise to disagreements tending to disrupt peaceful community relations.

We doubt that any necessary purpose would be served by including a set of findings in any bill this committee may report. Effective substantive legislation to deal with pressing civil rights problems can be enacted without preliminary findings. Approval of such legislation by Congress should not be jeopardized by inviting debate on the wording of what would be no more than an expression of sentiment. We therefore recommend that no findings be included in any bill this committee reports.

If the committee, however, decides to include findings, we respectfully urge that they should contain an affirmative declaration recognizing that State-imposed racial segregation violates the moral and ethical principles that must

guide congressional action. Anything less than this could be interpreted as a repudiation of the Supreme Court's antisegregation decisions. We also wish to warn against inclusion of language such as that contained in section 101 of the Johnson bill, which declares that, "The use of force in any manner as a means of trying to solve these disagreements [over the requirements of Federal laws] not only fails to produce satisfactory solutions but also tends to aggravate the disagreements and to create new problems." In the context of the present civil rights debate, the term "force" is likely to be taken as including force of law. It would be manifestly improper for the Congress, in the process of enacting civil rights legislation, to indicate reservations as to the effectiveness of legal sanctions.

IX. THE RIGHT TO VOTE

The Civil Rights Act of 1957 gave the Department of Justice power to start injunction suits against election officials who deny anyone the right to vote in elections of Federal officials or who discriminate on the basis of race in State and local elections. In seeking to exercise its powers under this provision, the Department of Justice has had difficulty in getting access to voting and registration records.

Both the McCulloch and the Johnson bills contain provisions dealing with this matter. Title III of the Johnson bill would permit the Attorney General to subpoena records relevant to an investigation of alleged interference with the right to vote under the 1957 act. If the records were in the possession of State, local, or governmental employees, the Attorney General would have this power only after he had requested the Governor of the State to order the person to surrender the document and the Governor had refused. The bill provides that, if a person refuses to comply with the subpoena, the Attorney General may apply to a special Federal district court of three judges for a decree requiring compliance. Disobedience of any such court decree would be punishable as contempt of court.

Title III of the McCulloch bill would go much further. It would require election officials to retain registration and other records for a period of at least 3 years after any general election in which Federal officials are chosen. Failure to retain the records and willful destruction of such records would be Federal crimes. The Attorney General would have the right to examine and copy the records and to get the aid of a Federal district court if he is denied access to them.

We recommend that this committee endorse the provisions of the McCulloch bill as far superior to those of the Johnson bill. The latter is open to criticism because it contains a possible loophole in the provision under which records held by State officials could be subpoenaed only after the Governor of a State had refused to order their production. In most if not all States, the Governor has no power to control the acts of State judges and grand juries. Once a Governor had ordered a State judge to furnish records in his possession to the Attorney General, the subpoena provisions of the Johnson bill would not apply, even if the judge successfully flouted the Governor's order. In addition, the three-judge court requirements of the Johnson bill is cumbersome. Most important, however, the provision of the McCulloch bill requiring that registration records be kept for 3 years is necessary to deal with the present problem. Only recently, a special session of the Alabama Legislature adopted a measure allowing registration boards to destroy election records after 30 days.

X. CIVIL RIGHTS COMMISSION

The Federal Civil Rights Act of 1957 established a Federal Commission on Civil Rights to study problems affecting equal protection of the laws. The life of the Commission was limited to 2 years from the effective date of the act, September 9, 1957. It was almost a year before the Commission was effectively organized.

Title II of the Johnson bill would extend the life of the Commission to January 31, 1961. Title IV of the McCulloch bill proposes a longer extension, to September 9, 1961, and would also require the Commission to submit an interim report to the President and Congress by September 1, 1959.

We believe it desirable for the Commission to file its final report while Congress is in session. Hence we favor the date proposed in the Johnson bill. We believe further that a useful purpose would be served by the proposed requirement of an interim report contained in the McCulloch bill.

Mere extension of the life of the Commission, however, is not enough. Section 104(a) of the 1957 act, which describes the powers of the Commission,

directs it (1) to "investigate" sworn allegations that U.S. citizens are being deprived of their right to vote because of race, religion, or national origin; (2) to "study and collect information" concerning denial of equal protection of the laws; and (3) to "appraise" Federal laws and policies regarding equal protection of the laws. The Commission has interpreted this section as giving it full investigative powers only in voting cases. Furthermore, the requirement that the Commission act in such cases only on sworn complaints has proved unduly restrictive.

We therefore recommend that section 104(a) of the 1957 Civil Rights Act be amended to read as follows:

"(a) The Commission shall—

"(1) Conduct investigations to determine whether citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, or national origin.

"(2) Conduct investigations to determine whether citizens of the United States are being deprived of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States by reason of their color, race, religion, or national origin."

XI. GOVERNMENT CONTRACTS

In 1941, President Roosevelt issued an Executive order establishing the wartime Fair Employment Practices Committee. That order required all Federal contracts to contain a provision prohibiting discrimination by contractors and subcontractors. Although the wartime FEPC went out of existence in 1946, the contract clause has remained in effect. It is now administered by the President's Committee on Government Contracts, originally established by President Truman and renewed and strengthened by President Eisenhower, who named Vice President Nixon as its Chairman.

Title V of the McCulloch bill would create a Commission on Equal Job Opportunity Under Government Contracts to replace the President's Committee. In doing so, it would declare "the policy of the U.S. Government to eliminate discrimination" in work on Government contracts. This would, for the first time, give the present nondiscrimination clause in Government contracts a basis in statutory law.

However, the proposed Commission, like the present Committee, would operate without enforcement powers. It would have power to make investigations and studies and to hold hearings (but without power to subpoena witnesses). It would make recommendations to the President and to the various Government agencies that have contracts, such as the Defense Department. The bill would direct contracting agencies to perform whatever duties the President imposes upon them. Presumably, this would give the President the ultimate power to compel agencies to enforce their contracts.

We submit that this is a manifestly halfhearted approach to this problem. If Congress is to take the decisive step of giving the nondiscrimination clause in Government contracts a permanent statutory base, it should provide effective machinery for its enforcement. While the President's Committee has achieved some gains, it has never had enough power to do a real job. As a result, the existing nondiscrimination clause is widely violated.

We therefore recommend that this committee endorse provisions establishing a Commission such as that envisaged in title V of the McCulloch bill but that it give that Commission conventional administrative powers to investigate complaints of discrimination by Government contractors, to issue subpoenas and hold hearings and, ultimately, to issue cease-and-desist orders enforceable in the courts requiring compliance.

XII. BOMBING AND VANDALISM

During 1957 and 1958, the Nation was shocked by a series of bombings and attempted bombings of integrated schools and Jewish places of worship. The fact that only a very few arrests have been made in connection with these outrages has prompted substantial support for legislation that would give the Federal Government power and a clear mandate to assist local officials in apprehending the culprits.

Both the Johnson and McCulloch bills have provisions on this subject. Title IV of the Johnson bill would make it a Federal crime to transport explosives in interstate commerce (or to possess any explosives so transported) with the

knowledge or intent that they will be used to damage any property "for the purpose of interfering with its use for business, educational, religious, charitable, or civic objectives." Title II of the McCulloch bill would make it a Federal crime to travel across State lines in order to avoid prosecution for violating State laws against damaging property if the property was used "primarily for religious purposes or for the purposes of * * * education."

In addition, a large number of separate bills dealing with bombing have been introduced in both the House and Senate, only a few of which can be referred to here. The Cellar bill (H.R. 15) would make it a Federal crime to transport explosives in interstate commerce, or to possess explosives that have been so transported, with knowledge that they are to be used "to damage or destroy any building for the purpose of interfering with its use for educational, religious, charitable, or civic objectives." The corresponding provisions of the Roosevelt and Loser bills (H.R. 2538 and H.R. 3026) would also apply to property used for "business" purposes. (These bills are companions to S. 188, introduced by Senator Kennedy on behalf of himself and 33 other Senators.) The Bolton bill (H.R. 2242) would apply also to property used for "residential" purposes. (This is a companion to S. 73, introduced by Senator Keating on behalf of himself and 14 other Senators.) Finally, the Dingell bill (H.R. 500) would condemn interstate transportation of explosives "for the purpose of endangering human life, or of destroying real or personal property without the consent of the owner."

We believe that legislation of this kind is desirable. It would bring the power of the Federal Government to bear on efforts to discover the perpetrators of bombing outrages and attempts. Would-be bombers are likely to be deterred if it is known that the FBI will participate in the ensuing investigation.

However, it is essential that the provisions approved by this committee be as broad as the evil at which they are aimed. This requires that they apply not only to schools, places of worship, and other institutional buildings but also to homes.

Almost half the incidents against property that have taken place in the South in the last few years have been against the homes of Negroes. We are submitting with this statement a chart we have prepared showing the bombings in the 11 Southern States for the last 4 years. The evidence presented in this chart establishes that any bill that fails to include residences will miss at least half of the mark. Indeed, the deterrent effect of a possible FBI investigation is particularly needed in attacks on homes, where investigations by State officials have been less vigorous than when institutions are destroyed. We believe the scope of the Bolton-Keating bill is tailored most closely to the demonstrated need for this legislation.

The various bills also differ significantly in respect to their enforcement features. All of the bombing bills described above contain carefully drafted provisions that would create rebuttable presumptions, when an explosive was used against a specified type of building, that the explosive was carried across State lines. This would virtually direct the FBI to start an investigation whenever such a dynamiting occurred. The Johnson bill would create no such presumption, but would authorize an FBI investigation when the Attorney General concluded that there were grounds to believe that an explosive had been transported across State lines. This would leave the Justice Department with power to decide in each case when it would intervene, which power it now has for all practical purposes. The administration bill is the weakest on this point, since it would apply only when a person has fled across State lines. FBI investigations would be confined to determining whether there has been such a flight. This would keep Federal participation in the investigation of bombings to a minimum.

The Johnson bill and most of the other bills also contain a provision that would make it illegal to use the mails, telephone, or other instrumentalities of interstate commerce to disseminate false information concerning bombing attempts. Such a provision would deter the vicious practice of disrupting the use of buildings by making anonymous telephone calls.

Finally, the Johnson bill contains a useful provision, not contained in other bills, that would permit the FBI to assist legal officials in the investigations of any bombing, without regard to interstate transportation or the nature of the building, upon the request of the Governor of the State or the mayor or other chief official of the place where the bombing occurred.

We urge this committee to approve the antibombing provisions of the Bolton-Keating bill, with the addition of the last-described provision of the Johnson bill.

CONCLUSION

The American Jewish Congress offers these proposals to this committee with the hope that it will decide to recommend to Congress adoption of a comprehensive civil rights bill that reflects a determined purpose to give validity to the American dream of equality.

Respectfully submitted.

WILL MASLOW,
General Counsel, American Jewish Congress.
JOSEPH B. ROBISON,
Of Counsel.

March 12, 1959.

APPENDIX

Chart of key proposals in Celler-Douglas, administration, and Johnson civil rights bills of 1959

| Subject | Celler-Douglas bill (H.R. 3147, S. 810) ¹ | Administration bills (H.R. 4457; S. 942, 955-960) ² | Johnson bill (S. 499) ¹ |
|---|--|---|---|
| (1) Action by Justice Department. | Would give Justice Department power to initiate desegregation suits (as in pt. III of 1957 bill) and also suits to restrain interference with execution of desegregation decrees and suits to restrain State action against antisegregation activity. (VI) | Would make it a Federal crime to interfere with rights or performance of duties under school desegregation decrees. (I) | |
| (2) Desegregation plans..... | Would give HEW Department power to draw desegregation plans. Justice Department could bring court action to require adoption of plan. (IV and V) | | |
| (3) Federal aid: (a) Technical assistance. (b) Financial aid for desegregation. | Detailed provisions. (II) Detailed provisions including construction costs. (III) | Limited but effective provisions. (VII) Limited provisions, not including construction costs. (VII) | |
| (4) Children of Armed Forces personnel. | | Federal Government could build schools where local schools closed. (VI) | |
| (5) Conciliation service..... | | | Would create independent Conciliation Service to alleviate differences arising out of Federal laws. (I) |
| (6) Findings..... | Condemns segregation. (I) | Declares responsibility of States to comply. (VII) | Deplores use of force. (I) |
| (7) Obtaining election records..... | | Would require records to be kept 3 years. Justice Department could subpoena through Federal district court. (III) | Justice Department could subpoena records through 3-judge Federal court. (III) |
| (8) Civil Rights Commission.. | | Would extend life to Sept. 9, 1961; interim report by Sept. 1, 1959. (IV) | Would extend life to Jan. 31, 1961. (II) |
| (9) Government contracts..... | | Would give statutory basis to present President's Committee on Government Contracts. (V) | |

See footnotes at end of table, p. 360.

Chart of key proposals in Celler-Douglas, administration, and Johnson civil rights bills of 1959—Continued

| Subject | Celler-Douglas bill (H.R. 3147; S. 810) ¹ | Administration bills (H.R. 4457; S. 942, 955-960) ² | Johnson bill (S. 499) ¹ |
|-----------------------------|---|--|---|
| (10) Bombing and vandalism: | | | |
| (a) Scope..... | | Religious and educational buildings. (II) | Educational, religious, charitable, and civic buildings. (IV) |
| (b) Procedural provisions. | | Would apply only to fugitive across State lines. (II) | Would apply to transportation of explosives across State lines. Justice Department could investigate where grounds to find such transportation. Could also investigate any bombing at request of State or local chief executive. (IV) |

¹ Numbers in parentheses refer to titles of the bill.

² Numbers in parentheses refer to titles of the McCulloch bill, H.R. 4457.

Mr. MASLOW. I want to point out, Mr. Chairman, that the statement has a table of contents in which we divide, by topic, the 12 major proposals among the great number of civil rights bills that have been introduced.

You will also find, Mr. Chairman, in the appendix of our statement, a chart comparing the chief features of the Celler bill, the McCulloch bill, and the Lyndon Johnson measure.

I also would like to ask leave to introduce a chart which we have prepared showing the bombings and attempted bombings in the 11 Southern States from January 1, to December 31, 1955.

Mr. RODINO. It will be inserted in the record at this point.
(The chart is as follows:)

**BOMBINGS AND ATTEMPTED BOMBINGS IN THE 11 SOUTHERN STATES FROM
JANUARY 1, 1955, TO DECEMBER 31, 1958**

SUMMARY AND HIGHLIGHTS

1. Seventy-seven bombings and attempted bombings took place in this 4-year period, 24 in 1958.

2. Of these 77, 10 were unsuccessful, the dynamite failing for one reason or another to explode.

3. There were bombings or attempts in 10 of the 11 States with 26 in Alabama and 19 in Tennessee. The only State in which no bombings occurred was Mississippi.

4. These 77 incidents fall into the following categories :

| | |
|------------------------------------|----|
| Negro homes..... | 35 |
| Synagogues and Jewish centers..... | 8 |
| Negro churches..... | 9 |
| Public schools..... | 6 |
| Places of business..... | 3 |
| Miscellaneous | 16 |

5. Of the 35 bombings of Negro homes, 23 were apparently efforts to punish or intimidate Negroes from moving into "mixed" or predominantly white neighborhoods.

6. Ten of the other eleven Negro homes were apparently bombed because their owners or occupants, Negro ministers, lawyers or NAACP officials, were active in Negro protest movements.

7. Six homes of white men, including two clergymen, were targets of bombings. A Greek Orthodox Church also was bombed.

8. Attacks were made or attempted on public schools in six cities: Charlotte, Chattanooga, Clinton, Jacksonville, Lynchburg, and Nashville (two of the schools being integrated).

9. Bombings or attempted bombings also occurred in other States, notably Boston, Mass. (Jehovah's Witnesses meeting place, Oct. 15, 1958), Chicago, Ill. (integrated apartment house, Oct. 30, 1958), Easton, Md. (home of Negro children attending an integrated public school, Sept. 13, 1957), Hobbs, N. Mex. (integrated junior high school, Nov. 23, 1958), Peoria, Ill. (synagogue, Oct. 14, 1958), Osage, W. Va. (integrated public school Nov. 10, 1958), Tulsa, Okla. (Negro home in mixed neighborhood, Jan. 19, 1958), Ventura, Calif. (home of religious cult, Dec. 10, 1958).

Bombings and attempted bombings

ALABAMA

| City | Date | Object | Remarks |
|-------------------------|-----------------------------|---|---|
| 1. Montgomery..... | Jan. 30, 1956 | Home of Rev. Martin Luther King, Jr., Negro leader. | Bomb blew out windows and damaged front porch. King had organized a bus boycott in December 1955. |
| 2. Birmingham..... | Apr. 10, 1956..... | Homes of Negroes on 12th Pl., North in Fountain Heights. | Fountain Heights nicknamed "Dynamite Hill"; association of whites sought to prevent sales to Negroes. |
| 3. Montgomery..... | Aug. 25, 1956..... | Home of Rev. Robert Graetz..... | 2 sticks of dynamite exploded. Graetz is the white pastor of an all-Negro Lutheran Church and a member of the boycott association in Montgomery. |
| 4. Birmingham..... | Dec. 25, 1956..... | Home of Rev. Dr. F. L. Shuttlesworth, Negro minister. | Explosion on Christmas night. Shuttlesworth had led a 1-day campaign in defiance of city bus segregation laws. Home heavily damaged. His home and church thereafter guarded continuously by volunteers. |
| 5. Birmingham..... | Dec 31, 1956..... | Home of Otis Flowers, Negro, in Woodlawn. | |
| 6 to 11 Montgomery..... | Jan. 10, 1957..... | 4 Negro churches and the home of Negro minister of 1 church and the home of white minister of another church bombed in 1 night. | Outbreak of violence began shortly after bus segregation was ended by Federal court order in December 1956. Churches were First Baptist Church, Hutchinson Street Baptist Church, Mount Olive Church, and Bell Street Baptist Church. Ministers were Rev. Ralph D. Abernathy and Rev. Robert Graetz. 2d explosion in Graetz's home. 2 white members of K.K.K. arrested and tried. Acquitted May 30, 1957. |
| 12. Montgomery..... | Jan. 27, 1957..... | Unsuccessful attempt on home of Rev. Martin Luther King, Jr. | 12 sticks of dynamite were tossed on the porch but failed to explode. 2d attempt on King home. |
| 13. Montgomery..... | Jan. 27, 1957..... | Negro home and a filling station | Bomb tossed between both buildings. 3 Negroes suffered cuts and scratches. |
| 14. Mobile..... | Feb 18, 1957..... | Home of Walter Johnson, Negro..... | Little damage; small bomb thrown by white boy on bicycle. Johnson lived in mixed neighborhood. Reported by press as 5th of a series of recent bombing attempts in Mobile. Second attempt on his home. |
| 15. Birmingham..... | April 1957..... | Negro home on 11th Ct., North..... | 6 persons in home at time uninjured. |
| 16. Birmingham..... | Apr. 10, 1957..... | Negro homes on 12th Pl., North..... | |
| 17. Bessemer..... | Apr. 28, 1957..... | Allen Temple A.M.E. Church (Negro). | Explosion occurred during service. 200 persons present, no one injured. Bomb went off in alley behind the church. Minister not active in integration fight. |
| 18. Birmingham..... | ----do..... | Home of Asbury Howard, Negro civic leader and vice president of an international union. | Howard was president of a Negro organization to encourage Negro voting. |
| 19. Birmingham..... | Oct. 19, 1957..... | Negro home on 12th Pl., North..... | Heavy property damage. |
| 20. Bessemer..... | Nov. 1, 1957..... | Home of David Hood, Jr., Negro lawyer. | Damage \$1,000 Hood had sued to open public parks to Negroes. Only 2 nights earlier, he had dismissed 3 guards who had protected his home for 3 weeks. The house had been circled with floodlights. Hood had been convicted of carrying a pistol without a permit. He had not been able to obtain a renewal of a permit which had expired. |
| 21 Birmingham..... | Dec. 7, 1957..... | Home of Robert Greer, Negro, 13th St., North. | 2 separate blasts in 2 different rooms. Reported by A.P. as 4th bombing in Fountain Heights in few months. |
| 22. Birmingham..... | Dec. 31, 1957..... | Home of Otis Flowers, Negro, in East Birmingham. | Blast blew out a wall; 12-year-old boy suffered a cut hand. Home in white neighborhood. Prior warning by fiery cross. |
| 23. Brewton..... | Mar 25, 1958..... | Freewill Baptist Church, white | Church demolished. No apparent racial angle. |
| 24. Birmingham..... | Apr 29, 1958 (Tuesday)..... | Unsuccessful attempt on Temple Beth El. | 54 sticks of dynamite left in a satchel at the temple failed to explode. Fuse wet by rain. |

| | | | |
|----------------------|---------------------|--|---|
| 25. Birmingham | June 29, 1958 | Unsuccessful attempt on Negro Bethel Baptist Church. | Smoking package of dynamite in front of church thrown into street where it exploded. F. L. Shuttlesworth, Negro integration leader, pastor of church. |
| 26. Birmingham | July 17, 1958 | Home of William Blackwell, Negro, and of a white neighbor in a mixed neighborhood. | 3 men who had attended a K.K.K. meeting caught by Negroes in neighborhood and then arrested. Later charged with bombing. 1 man convicted on Dec. 5, 1958, and given 10-year sentence. |

ARKANSAS

| | | | |
|----------------------|---------------------|---|--|
| 1. Little Rock | Dec. 31, 1957 | Unsuccessful effort to bomb home of Mrs. L. C. Bates. | Crude bomb in a bottle exploded in driveway causing no damage to home of NAACP leader. |
|----------------------|---------------------|---|--|

FLORIDA

| | | | |
|-----------------------|------------------------------|--|--|
| 1. Sorrento | Nov. 13, 1955 | Home of Allen Platt | Gasoline bombs Platt's children, dropped from school rolls on claim they were part-Negro sued to compel their admission. |
| 2. Havana | Oct. 21, 1957 | Negro church | Blast tore hole in churchyard, the aftermath of killing of white man allegedly by Negro. |
| 3. Miami | Mar. 16, 1958 (Sunday) | School annex of Temple Beth El | \$6,000 damage. 1st terror explosion in Miami since 1951. |
| 4. Jacksonville | Apr. 28, 1958 (Monday) | Jewish Center | \$2,000 damage. Telephone threat received immediately after explosion from "Confederate Underground." |
| 5. Jacksonville | Apr. 28, 1958 | James Weldon Johnson Junior High School (for Negroes). | \$20,000 damage. School 4 miles away from Jewish Center. Both explosions within half hour. No integration dispute or law suit in Jacksonville. |

GEORGIA

| | | | |
|-------------------|------------------------------|--|---|
| 1. Atlanta | Mar. 25, 1956 | Home of Mrs. Eddie May Cooper, Negro. | Home, in mixed neighborhood, destroyed. |
| 2. Atlanta | Apr. 17, 1956 | Home of Mrs. Gertrude Anderson, Negro, on Old Know St. | West Side Improving Association sought unsuccessfully to buy Anderson home. |
| 3. Atlanta | July 3, 1956 | Home of Carl Haynes, Negro | Heavy damage to home in predominantly white neighborhood. Press reported bombing of several other Negro homes in northwest section earlier in the year. |
| 4. Americus | July 23, 1956 | Roadside market at Koinonia Farm | \$3,000 damage. Farm is an interracial religious cooperative. Its leader had aided Negroes seeking admission to white school. |
| 5. Americus | Jan. 14, 1957 | Roadside market, Koinonia Farm | 2d blast, \$7,000 damage, market destroyed. |
| 6. Ringgold | Nov. 29, 1957 | Unsuccessful attempt on tenant farm home of Philip Huggins, Negro. | Huggins had been warned 2 months earlier by group of robed men to leave country. 7 sticks of dynamite found with burned-out fuse under front porch. |
| 7. Atlanta | Mar. 17, 1958 | Unoccupied home sold to Negro. | Home was in predominantly white neighborhood. |
| 8. Columbus | July 2, 1958 | Home of Mrs. Essie Mae Ellison, Negro. | Home, in mixed neighborhood, partly destroyed. |
| 9. Atlanta | Oct. 12, 1958 (Sunday) | Temple of Hebrew Benevolent Congregation. | About \$10,000 damage caused by estimated 30 to 40 sticks of dynamite. George Bright tried and acquitted. |

Bombings and attempted bombings—Continued

LOUISIANA

| City | Date | Object | Remarks |
|---------------------|--------------------|-------------------------------------|--|
| 1. New Orleans..... | Nov. 23, 1958..... | Parking lot of school building..... | The school superintendent had a parking place assigned near the site of the explosion. |

NORTH CAROLINA

| | | | |
|--------------------|------------------------------|---|---|
| 1. Greensboro..... | Oct. 2, 1957..... | Home of Elijah Herring, Negro..... | Herring's children were attending a white school. |
| 2. Charlotte..... | Nov. 5, 1957..... | Home of Negro..... | Vacant house partly destroyed. 3d blast in neighborhood in 2 weeks, a new development consisting of 65 homes intended for Negro occupancy was being built. |
| 3. Charlotte..... | Nov. 12, 1957 (Tuesday)..... | Unsuccessful effort to bomb Temple Beth El. | 6 sticks of dynamite with partly burned 14-foot fuse found outside the Temple. |
| 4. Charlotte..... | Jan. 1, 1958..... | Marquee of drive-in theater..... | Theater admits both white and Negro patrons. |
| 5. Gastonia..... | Feb. 9, 1958 (Sunday)..... | Unsuccessful effort to bomb Temple Emanuel. | 30 sticks of dynamite found outside of Temple. Fuse had burned to within 1½ inches of dynamite. |
| 6. Charlotte..... | Mar. 20, 1958..... | Negro public school..... | 3 members of a K. K. K. group were convicted of plotting to plant a homemade bomb in a Negro school on February 15. Discovered by police undercover agent. 3 men began serving 5-year prison sentences. |
| 7. Durham..... | July 7, 1958..... | Home of Rev. Warren Carr, white..... | Minister headed Durham Human Relations Committee. 4 teenagers admitted prank and were not prosecuted. |

SOUTH CAROLINA

| | | | |
|-----------------|--------------------|--|--|
| 1. Gaffney..... | Nov. 20, 1957..... | Unsuccessful attempt on home of Dr. James H. Sanders, a white physician. | Mrs. Sanders had contributed to a publication entitled "South Carolinians Speak—a Moderate Approach to Race Relations." 5 K. K. K. members charged on Dec. 7, 1957, with the attempted bombing. 2 were thereafter acquitted and other 3 never tried. |
| 2. Cowpens..... | Nov. 21, 1957..... | Home of Lewis Ford, Negro tenant farmer. | White owner could give no reason for bombs. |

TENNESSEE

| | | | |
|---------------------|---------------------|---|---|
| 1. Clinton..... | September 1956..... | 5 dynamite blasts in Negro section..... | Federal court had ordered admission of 12 Negroes to Clinton High School in August 1956. 1 blast in a lot adjoining home of Negro student in Clinton High School. |
| 2. Clinton..... | Dec. 29, 1956..... | Headquarters of White Citizens Council. | 3 sticks of dynamite ripped hole in side of building. |
| 3. Chattanooga..... | Jan. 23, 1957..... | Home of Galen Lehman, white man..... | House had been shown to Negro prospective buyers. |

| | | | |
|----------------------|-----------------------------|--|--|
| 4. Clinton..... | Feb. 15, 1957..... | Blast in Negro neighborhood..... | Suitcase loaded with dynamite exploded; windows in 30 homes shattered. 2 persons injured. |
| 5. Knoxville..... | Feb. 19, 1957..... | Bombing of municipal auditorium.... | Single stick of dynamite tossed from passing car while Louis Armstrong's band was playing for a segregated audience. Bomb exploded 200 feet from building. |
| 6. Clinton..... | Mar. 11, 1957..... | Unsuccessful attempt on home of Negro student in integrated high school. | 15 pounds of loose explosive found in gallon bucket. |
| 7. Chattanooga..... | May 25, 1957..... | Home of R. H. Craig, Negro lawyer.... | Craig had urged more jobs for Negroes in county government. Earlier, crosses were burned on property and guns shot into his home. |
| 8. Jersey..... | Aug. 13, 1957..... | Home of Negro couple..... | Newspapers also reported that a dynamite attempt on a Negro restaurant occurred a few days earlier. |
| 9. Nashville..... | Sept. 10, 1957..... | Destruction of 1 wing of Hattie Cotton public school in East Nashville. | A Negro child had been admitted as 1st step in integration plan. |
| 10. Chattanooga..... | Oct. 27, 1957..... | Explosion in field near Negro residential area. | 65 houses being built in new subdivision designed exclusively for Negroes. |
| 11. Chattanooga..... | Oct. 28, 1957..... | Home of Negro couple in Negro section | 3d bombing in less than 2 weeks. |
| 12. Chattanooga..... | Nov. 5, 1957..... | Home in Negro section | Bomb homemade. Damage \$1,000. |
| 13. Chattanooga..... | Jan. 19, 1958..... | Howard school (for Negroes)..... | Explosion outside building. |
| 14. Chattanooga..... | Jan. 27, 1958..... | Phyllis Wheatley branch of YWCA (for Negroes). | |
| 15. Clinton..... | Feb. 13, 1958..... | White man convicted of conspiring to dynamite integrated Clinton High School. Sentenced for 2- to 10-year prison term. | 2 sacks of dynamite containing 150 sticks found across a river from the school last fall. 2 men told the sheriff they had been offered \$500 to blast the school, according to press accounts. |
| 16. Nashville..... | Mar. 16, 1958 (Sunday)..... | Jewish Community Center..... | \$6,000 damage. Telephone call immediately after explosion from "Confederate Underground." Threat also against Federal judge who had issued integration order. |
| 17. Memphis..... | Aug. 5, 1958..... | Negro Mount Moriah Baptist Church. | 3 dynamite blasts, \$300,000 damage. |
| 18. Clinton..... | Oct. 5, 1958..... | Clinton High School (integrated)..... | Steegal had been soliciting membership for NAACP. Stick of dynamite found in his backyard. |
| 19. Nashville..... | November 1958..... | Unsuccessful attempt on home of Lee Steegal, Negro employee of Fisk University. | |

TEXAS

| | | | |
|------------------|--------------------|---|---|
| 1. Beaumont..... | Jan. 7, 1957..... | Unsuccessful attempt on home of Dr. Ed Sprott, Negro physician. | Physician was former NAACP official. |
| 2. Beaumont..... | Jan. 9, 1957..... | Home of Grover Lee Myles, Negro.... | Home in mixed neighborhood. |
| 3. Beaumont..... | Jan. 28, 1957..... | Truck owned by State Senator Rufus Kilpatrick. | Kilpatrick had aided in delaying anti-integration bill. |
| 4. Beaumont..... | do..... | Home of white retired car dealer, C. R. Smith. | He believed it was caused by his "middle of road" stand on integration. |
| 5. Beaumont..... | do..... | Entrance of St. Michael's Greek Orthodox Church. | The pastor of St. Michael's said he had taken no stand on integration but had received a telephone warning "we wanted to get the foreigners." All 3 blasts occurred in the evening. |
| 6. Beaumont..... | June 21, 1958..... | Home of Dr. Russell Long, professor at Lamar State College of Technology. | College was integrated in 1956. |

Bombings and attempted bombings—Continued

VIRGINIA

| City | Date | Object | Remarks |
|-------------------|--------------------|-------------------------------------|--|
| 1. Lynchburg..... | Oct. 29, 1958..... | Attempt on E.C. Glass High School.. | "Disconnected" dynamite bomb found in the trash pile at school. A bombing threat had been received by the school a week earlier. |

Mr. MASLOW. The reason for that chart, sir, is that it shows that during this 4-year period in these 11 States, the homes of 35 Negroes and the homes of 6 white men were bombed. That is, more than half of the 77 bombings involved homes. We say, therefore, that any so-called antidynamite legislation that doesn't include homes within its scope does not deal with at least 50 percent of the problem.

The only bill pending before you now that does include homes is the so-called Bolton bill, H.R. 2242.

The Bolton bill is a counterpart of a bill introduced in the Senate by a bloc of some 11 or 12 Senators headed by Senator Keating. However, it would be possible to take the Celler bill, or one of the Celler bills, and amend it to include the word "homes,"—just that one word.

Mr. HOLTZMAN. I might advise my good friend that I have such a bill that does include homes.

Mr. MASLOW. I am glad to hear that, sir. If that were done, then we would have a bill which at least deals with the problem before us.

I would like now to turn by attention to what has been described by Congressman Holtzman as the heart of the problem before you, and that is whether or not the old part III should be included in any civil rights measure to be reported out of this committee.

That really is another way of asking shall the Federal Government have the actual responsibility of bringing suits in the Federal courts or shall it assume the role outlined by Secretary Flemming of sitting on the sidelines offering advice to those agencies that request it—modest grants to those States that request them.

That, in essence, is a role of a neutralist, because if Secretary Flemming were realistic he would understand that today there are six Southern States which haven't desegregated a single one of their school districts, although $4\frac{1}{2}$ years have elapsed since the Supreme Court decision of *Brown v. Topeka*.

Mr. RODINO. In other words, Mr. Maslow, nothing could happen there to correct the situation in these six States?

Mr. MASLOW. The six States are Alabama, Florida, Georgia, Louisiana, Mississippi, and South Carolina. There has been absolutely no desegregation there.

It is completely quixotic to assume that any of these six States are going to ask Mr. Flemming for his advice on how to desegregate.

It is also equally quixotic to assume that any of these six States are going to ask Mr. Flemming for some modest sums to help them desegregate.

That leaves us five more States that are a part of the Southern bloc. These other five States are Texas, Tennessee, Arkansas, North Carolina, and Virginia.

We have just had a token form of integration, and really token in these five States.

It is extremely unlikely that any of these five States are going to ask for advice or ask for grants. One of the great weaknesses of Secretary Flemming's position and the administration's bill is that it forbids the Federal Government to make a grant to a school district which might be prepared, in defiance of a State policy, to make application.

In Virginia, for example, when it was threatened that aid would be cut off from Arlington, it was quite likely that the school board of

Arlington would have been in a position to ask the Federal Government for aid, but under the administration's measure, aid may not be given to a local school district except with the consent of the State.

The result is that this new administration approach, the so-called carrot approach of dealing with the problem, will not affect the six intransigent Southern States, and it is extremely unlikely to affect the other five "token" States.

The administration measure therefore, boils down to a proposal to help the border States which are doing very well without the help of the Federal Government.

By this time, desegregation has almost been completed in Kansas, Missouri, Oklahoma, West Virginia, Maryland, and will be completed very soon in Delaware.

Unless you can break the logjam in the hard-core States of the solid South, then you are deluding the people of the United States.

You can break that logjam in two ways—you can break it first by really offering substantial grants to school districts who might be tempted to defy their State authorities.

It is conceivable, for example, that if Atlanta were offered a substantial enough grant and could get it from the Federal Government, that it would be prepared to assume an autonomous attitude toward the State of Georgia and it might be possible in other school districts throughout the South, but if your bill itself provides that you can't even grant aid to a school district until the State approves it, you are not going to make any grants.

That brings us to the other approach. If you can't do this by the carrot approach and, judging by the last 4½ years, some other approach is necessary. That is the approach of having the Federal Government itself assume the responsibility of bringing suits in the Federal courts.

The U.S. Supreme Court did not say that this is a matter which can be handled only by the NAACP. That doesn't appear in *Brown v. Topeka*.

It said that we will not formulate these decrees because that requires a technical knowledge of local conditions, and we will ask the local district authorities to formulate them.

The U.S. Supreme Court didn't say who should bring the litigation, but we must recognize that litigation may have to be brought in each one of the 2,500 school districts of the South before they will begin their compliance.

They are more likely to move, however, if some agency other than the NAACP, has this responsibility of suing in these district courts.

The NAACP has done a perfectly magnificent job.

Nevertheless, with its resources it is able now to conduct only 35 separate pieces of litigation in the school districts of the South—35 against 2,500—and many of these cases take years and years to bring to fruition.

One of the five cases that came before the U.S. Supreme Court is the case in Clarendon, S.C. No order has yet been issued in Clarendon because, purely and simply, the Negro plaintiffs were scared off from proceeding to get the benefits of the decision of the U.S. Supreme Court.

There is no final order yet in parts of Virginia.

It is manifestly unfair to say that this constitutional mandate—that there shall be equality in public education is something which the Federal Government cannot soil its hands with and must leave it to the NAACP.

This title III was something that the administration itself recommended in 1956 and 1957.

What has happened between 1957 and 1959 to warrant this change? The only thing that the Attorney General has alluded to is the situation in Virginia.

I hardly think that the victory in Virginia is so glorious that the Federal Government can take a great deal of pride in it. Mr. Rogers said he did precisely nothing to bring it about.

This was a victory brought about by litigants in Virginia. It was a victory, but at a terrible cost. There were 12,000 schoolchildren deprived of their learning for a semester, and communities were disrupted.

If this is the kind of victory that we have to have, if this is how we are going to accomplish desegregation in the other six States that thus far have not admitted a single Negro, we are really in for a period of chaos.

Mr. Rogers did make a public statement at one time in which he said that if the Southern States continue to adopt this attitude of intransigence, then perhaps it is time for the Federal Government to bear this in mind when it locates new Federal installations in the Southern States.

If that is a factor to be considered in establishing Federal installations, I cannot see why the Federal Government shies away from the job of enforcing the command of the 14th amendment.

Mr. Rogers, for instance, finds no great difficulty in having the Federal Government assume a responsibility for the 15th amendment and the 1957 Civil Rights Act authorizes the Department of Justice to bring injunction suits to defend the right of the Negroes to vote.

Now that constitutional mandate for voting without discrimination because of race or color is not in a higher scale of values than the constitutional mandate of equality in the 14th amendment, I cannot see the logic which says that we will help to enforce the 15th amendment but the 14th amendment we will leave to the NAACP.

Mr. HOLTZMAN. At this point, Mr. Chairman, I have the quote from Mr. Rogers which was made before the Antidefamation League on December 10, 1958, in New York, and I will read it and ask that it be inserted right after the remarks of Mr. Maslow where he alluded to it.

Mr. Rogers said:

Community tensions resulting from racial prejudices are not without their economic implications.

Private enterprise, in making new investments, will necessarily take into account the climate of local opinion and the public facilities that will be available to personnel.

Now, here is a more specific quote:

By the same token, the Government, in determining the location of new or expanded Federal facilities will have to give consideration to the availability of public schools, and other public utilities, as a matter of fairness and justice to its personnel who will be on duty there.

Mr. MASLOW. Thank you very much, sir.

The particular provision we are discussing, the old part III which has been described by Congressman Holtzman as the heart of the measure, is not a mandatory command to the Attorney General to bring suits.

It is merely an authorization. He may very well decide that in certain situations the better part of wisdom dictates that he shall not sue and I for one certainly would not say that litigation is the only way, the indispensable way, of handling this problem in each one of the 2,500 districts.

There may be some situations where it is possible, by other methods, to persuade a school district to comply. But, I would say that the Federal Government will be in a much stronger position to persuade a school board to comply if that school board knew that the Attorney General had the power to go to court and compel them to comply. That has been the experience of the 14 commissions that now exist in the North and who are administering civil rights laws of one type or another.

These 14 commissions, including the pioneer one in New York, the one in Mr. Miller's own State, rely principally upon powers of persuasion, but the reason they have been so successful is that the respondent knows that if he is unwilling to listen to this persuasion, a cease and desist order may be issued against him.

Therefore, the mere authorization to the Attorney General to bring a suit puts a powerful weapon in the hands of Secretary Flemming, or of other persons, when they try to persuade a school board to negotiate.

I would like now to turn to another subject which has occupied the committee this morning, and that is the President's Committee on Government Contracts.

I think everyone would agree that some good would be accomplished by transforming this agency, which now exists by virtue of an Executive order and whose legal status is therefore always doubtful, into a creature of the U.S. Congress.

I would suggest, sir, that the way to proceed is not the way suggested this morning by broadening its jurisdiction to include matters of interstate commerce.

I think that certain intermediate steps first be taken. One of the intermediate steps is that this Commission shall be not as it is today, a purely advisory body, but a body with the power to issue cease and desist orders against Government contractors who refuse to abide by the nondiscrimination clause.

Those orders can then be enforceable in the courts.

At present, there is no appropriate sanction. An important contract sometimes involves the security of the United States which may be imperiled by the cancellation of that contract.

I speak from experience because during World War II, I was in charge of the operations of a similar committee, the President's Committee on Fair Employment Practices. We had the experience with agencies manufacturing cable needed by the troops on the battle-line. The Government agency said this particular contractor is discriminating, but if we cancel his contract, our troops won't have the cable. We had this conflict to reconcile.

The sanction of cancellation is so dread, that it is not exercised. We need a sanction that is more effective. That sanction is a simple

one: to allow the agency to issue, after a notice and hearing, a cease and desist order enforceable in the courts.

When you have an agency with those powers operating in this large segment of industry, that is, employers holding Government contracts, we will have made a substantial step forward. We don't have to attempt to do all of this tremendous job in one particular session of Congress.

Let me refer now, in conclusion, to some of the other main proposals.

I will have time merely to give the recommendations of my agency, the argumentation is made in the statement which each member of the committee has before him.

On the Civil Rights Commission, we prefer the extension of the life of the Commission to the date fixed by Mr. Lyndon Johnson, not the date fixed by the administration. In other words, we prefer the date of January 31, 1961, rather than September 9, 1961, even though it is 6 months shorter. Our reason is that we think that the final recommendation should come at the beginning of a congressional session, and not at its end.

However, we agree with the language of the administration's proposal, which would require this particular Commission to hand down an interim report. I go along with all of the others who say that this committee's responsibilities are such that it cannot await the recommendations of this six-man agency.

There are as many qualified persons sitting in the Senate and House Judiciary Committees who know as much as these persons do about civil rights who have been working for a year in this area.

On the question of the obstruction to court orders, one of the administration's proposals, we endorse that proposal, but we would suggest a strengthening. The bill makes it a criminal offense for any person to interfere with the execution of a court order.

We can't understand why it isn't a criminal offense for a mob to interfere with any desegregation; why does there necessarily have to be a court order.

There were mobs in Clinton, Tenn., before the court order. If the Federal Government needs this criminal sanction, it ought to have it at both stages, before the court order and after the court order.

With respect to the proposal for Federal grants, we prefer, for the reasons I have given, the Celler proposal. It provides for more substantial grants, for a longer period of time, and without the matching provision, and most important, it provides that grants may be made directly to school districts without the necessity of obtaining the consent of the State.

On the question of technical assistance, we prefer the Celler proposal because it offers a greater variety of assistance, with fewer limitations.

On the question of voting records, there are, as you know, two proposals. One is by the administration, one is by Lyndon Johnson. We prefer the administration's measure, because it is much less cumbersome, much more efficient.

To cite one example, it provides that the records may be photostated and taken away instead of the necessity of subpoena of original records and taking them out of the State.

All the Federal Government wants to do is examine them at its leisure, and if it has a certified copy of a photostatic document, that is sufficient. Equally important, it also provides that these records shall be preserved for 3 years.

If the State of Alabama has its way, these records will be destroyed in 30 days and there will be nothing to subpoena.

Finally, on the conciliation service, we think there are dangers in the wording of the Lyndon Johnson bill in that it seems to indicate that the constitutional rights may be conciliated. We prefer the language in the Celler bill, which empowers the Department of Health, Education, and Welfare to persuade school boards and others to comply with the Supreme Court decision.

There is quite a distinction, you will agree, between urging somebody to comply with the Supreme Court decision, and having an outsider come in to conciliate disagreements about the meaning of the Constitution.

Thank you.

Mr. HOLTZMAN. I just want to say to Mr. Maslow that the statement you made was just what I expected of you. It was thorough, complete, and very enlightening.

Mr. RODINO. Mr. Maslow, I want to commend you for the very scholarly presentation you have made.

I am sure it will be invaluable to the committee.

Thank you very kindly for having been with us.

Our next witnesses are Mr. Hyman H. Bookbinder and Mr. Tom Harris of the AFL-CIO.

STATEMENT OF HYMAN H. BOOKBINDER, LEGISLATIVE REPRESENTATIVE OF THE AFL-CIO, ACCOMPANIED BY TOM HARRIS, ASSOCIATE GENERAL COUNSEL FOR THE AFL-CIO

Mr. BOOKBINDER. Mr. Chairman, Mr. Biemiller, the director of the AFL-CIO Legislative Department, had a statement and hoped to present it personally. I would ask that his statement be put in the record at this point.

Mr. RODINO. His statement will be included in the record at this point.

(The statement referred to follows:)

STATEMENT BY ANDREW J. BIEMILLER, DIRECTOR, DEPARTMENT OF LEGISLATION, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

On behalf of the AFL-CIO, I want to thank the committee for this opportunity to express labor's views on the vital question of civil rights legislation.

A little over 2 years ago, I appeared before the House Judiciary Committee and concluded my statement then with the following comment:

"Our fine preachments about 'democracy' and 'freedom' and 'equality' will have real meaning only as we make these goals truly meaningful for all Americans. Let us finish our job now."

It is clear, of course, that the job is still far from finished.

In these 2 years, much has happened. Congress, for the first time in 82 years, passed a civil rights statute. It was a truly historic action, and the chairman of this committee is justifiably proud that the act bears his name. But the inadequacy of that act was demonstrated within days after the President affixed his signature thereto. Little Rock was the most eloquent evidence that the kind of law the chairman and many of his colleagues preferred to the one actually enacted was what the situation required.

The AFL-CIO agrees thoroughly with the opening statement of the chairman that "the country is eager to go forward with the work begun with the passage of the Civil Rights Act of 1957" and that "to stand still is to regress." The 86th Congress must now build on the foundation laid by the 85th.

We do not intend to burden the record with a repetition of the excellent testimony which has already gone into the record detailing the need for further legislation and explaining the specific objectives of the various proposals. We would like to make some comments about labor's attitude in this sensitive area and then make our specific recommendations.

The AFL-CIO is fully aware of the fact that no laws can by themselves wipe out prejudice and bigotry. We cannot by law decree fairness and brotherhood and equality. There must be personal readjustment in the hearts and minds of our people before all traces of bigotry are eliminated. But there is much which can and should be done both by voluntary organizations and by Government to make that personal adjustment as rapid and as meaningful as possible. Prejudice and bigotry are personal, subjective things. But discrimination, segregation, lawlessness, and inequality are social acts—and these society has a right and a duty to eliminate as rapidly and as thoroughly as possible.

The American labor movement—now united in the AFL-CIO—has taken a clear stand on this great moral question of our times. Before they merged, the AFL, the CIO and many of their affiliated national and international unions testified frequently before congressional committees on many aspects of the civil rights problem. Since 1955, when the two great labor organizations merged, we have spoken with a single voice. The resolution on civil rights adopted at the historic merger convention in 1955 made it clear that the AFL-CIO will work vigorously for the extension of human rights both within our organizations and in society generally.

At its second convention, in 1957, the AFL-CIO was able to report to its delegates the various steps it had taken to implement the resolution of 1955. In its 1957 resolution, the AFL-CIO convention approved these steps and pledged further action on all fronts. (The full text of that 1957 resolution is included herein as attachment 1.)

Labor is as much aware as any other group that full implementation of our civil rights goals is a difficult and slow process. In labor's own ranks, there is much to be done. But through our civil rights committee and our department of civil rights, we are determined to make progress as rapidly as possible.

In a speech last year, AFL-CIO Secretary-Treasurer William Schnitzler declared that "there can be no rest for any who cherish liberty, who truly believe in democracy, who are dedicated to the proposition that all men are created equal—until we drive segregation and discrimination from our borders, until we achieve full civil rights for all our citizens."

For taking a forthright position, the American labor movement has been the target of reactionary, racist forces. Our organizing campaigns have suffered because of this bitter, vituperative opposition. But we are proud to plead guilty to the charges being hurled at us. Mr. Schnitzler, in the same address, stated:

"The trade union movement does believe in, does use its resources for, and will continue to fight to achieve an end to segregation in our public schools system.

"Let me make this clear. If we had known before we intervened in the school segregation case that the trade union movement would be the target of such abuse, and that its organizing campaigns would face such violent storms, we would still have done exactly what we did.

"We do not intend to compromise. This is a matter of principle and principles cannot be compromised."

In the same spirit, Mr. Chairman, we respectfully call upon the Congress to enact legislation which will put it, the Congress, clearly and unmistakably in support of the Supreme Court decision. It is a sad fact that 5 years after the historic decision, the Congress of the United States has yet to take a first step in recognizing and supporting it.

From our own experience inside labor, and from our study of the national problem, we realize that racial equality cannot be achieved overnight or by fiat. But there must be, and we feel certain there can be, significant and uninterrupted progress, if Congress will provide the backing and the tools with which to make such progress.

THE CELLER-DOUGLAS BILL

In a statement adopted only last month, the AFL-CIO Executive Council endorsed H.R. 3147, the proposed Civil Rights Act of 1959, submitted by the chairman of this committee. (See attachment 2.) It described this bill as the "clearest and the timeliest" of the major proposals on civil rights offered to the Congress this year. It is a bill which would provide precisely the kind of backing and tools which are needed at this crucial and delicate stage of the civil rights challenge facing America.

H.R. 3147 is a moderate bill, in the best sense of the word. It is based on clear approval of the Supreme Court's decision as reflecting the "moral ideals of the Nation"; it declares that the basic constitutional rights "shall be protected by all due and reasonable means"; and it stresses positive, constructive actions to obtain peaceful accommodation. Only as a last resort, does it provide machinery for enforcing the law of the land through civil actions instituted by the Department of Justice. This is precisely the combination of tools that is needed—education, technical and financial assistance, negotiation and conciliation—but all of this within the framework of obedience to the law, with ultimate sanctions if necessary. It is the grossest form of distortion to label this proposal as punitive or a force measure.

The administration proposals, as reflected in H.R. 4457, introduced by the ranking Republican on the committee, Mr. McCulloch, constitute some progress but fall far short of the needs. The provisions for assistance to the States in adjusting to desegregation are welcome, but they are merely halfway steps that are better treated in the Celler bill.

It is a source of great disappointment that the administration has failed to include the vital part III of its 1957 bill in its current recommendations. Surely the experience since 1957 only adds support to the case for part III. Deletion at that time of this provision contributed to the climate of lawlessness and resistance. Little Rock might never have happened if the Federal Government had been clothed with the authority contained in part III. It is bitter irony indeed that the Congress yielded to the demagogic cries that part III meant troops would be used to enforce desegregation, only to find that the absence of Federal authority permitted the deterioration of the Little Rock situation to such a state that in the judgment of the President the use of Federal troops became necessary.

Part III—now incorporated as titles VI and VII of the Celler bill—is the heart of any civil rights legislation which must be enacted by the 86th Congress. Its significance has been recognized by the introduction of a number of bills which do this alone. It would be much better, however, if this important authority were granted the Attorney General as part of a total program which sought first to provide vitally needed technical and financial assistance and Federal leadership to States and communities. This the Celler bill does.

It cannot be repeated too often that the powers conferred in titles VI and VII could be used where State or local officials deny any person the equal protection of the laws on account of race, color, religion, or national origin, but only upon a signed complaint and when in the judgment of the Attorney General the person aggrieved is unable to seek effective legal protection for the right involved.

OTHER PROPOSALS

In addition to supporting the Celler bill, the AFL-CIO urges the Congress to take action in a number of related areas.

One provision in the administration bill merits special commendation. We endorse the proposal that would require that election officials preserve Federal election records for 3 years, such records to be available to the Attorney General for examination, and would authorize district courts to compel production of such records for examination. The recent experience in Alabama is sufficient evidence of the need for this authority. With this additional step, the Civil Rights Act of 1957 should be able to make a substantial contribution towards securing this basic right of franchise to all American citizens regardless of race.

Another provision of the administration bill deserves favorable consideration by the Congress. This is the proposal to give statutory authority to the President's Committee on Government Contracts. The AFL-CIO has worked closely with this Committee and is keenly aware of both its accomplishments and of its present weaknesses. AFL-CIO President George Meany and Vice President Walter Reuther serve as members of this Committee. Statutory authority would

undoubtedly make more effective the Committee's activities in coordinating and assisting the efforts of Federal agencies in the enforcement of nondiscrimination clauses in Government contracts. These efforts have been helpful, but greater authority for the Commission is needed. The administration proposal should be strengthened to authorize the Commission to hold full dress hearings with subpoena power and to direct any Government contracting agency to terminate a contract or to refrain from making a new contract where, after reasonable warning, the Committee finds that discrimination has persisted.

Although the matter is not before this committee at this time, we wish to state that a full-fledged Fair Employment Practices Act is the real answer to discrimination in employment. State and local laws have been helpful and we urge their extension and strengthening, but we express the hope that before long the Congress will enact enforceable fair employment practices legislation.

Last year, the AFL-CIO gave testimony to another subcommittee of the House Judiciary Committee in the matter of the outrageous bombings which have taken place in houses of worship, schools, community centers, and homes of persons associated with efforts to establish equal rights for all our citizens. Bills dealing with this problem have again been referred to Subcommittee No. 3, but title II of the administration bill deals with this subject and is before this subcommittee.

H.R. 4457, the administration proposal, aims to bring the Federal Government into these bombing cases by making it a Federal crime for a person to flee across State lines to avoid arrest or prosecution for such bombing. Other proposals would make it a crime to ship explosives in interstate commerce for the purpose of bombing any building. Both approaches have as the basic objective bringing in the FBI to help apprehend the criminals and to forestall such acts. There is no desire to deprive local authorities of their rights and responsibilities in enforcing law and order. The Congress should enact such provisions which will ensure the most expeditious participation of the Department of Justice in preventing and if necessary punishing these despicable acts.

We support extending the life of the Civil Rights Commission, but such extension must not be used as an excuse for failing to enact legislation the clear need for which has already been amply demonstrated.

ACTION CANNOT BE DELAYED

We are pleased that this subcommittee has moved so early in the session to consider civil rights legislation. It is our hope that agreement can be reached in committee without delay and that the House will pass a meaningful bill very soon. Expedious action in the House is needed if final congressional approval in 1959 is to be achieved.

Before long there will be another September, and that means new challenges in school desegregation. And even sooner than that there will be primaries and then elections. The situation cannot wait. New legislation is needed and needed now.

ATTACHMENT No. 1

RESOLUTION ON CIVIL RIGHTS ADOPTED AT THE SECOND CONSTITUTIONAL CONVENTION OF THE AFL-CIO, DECEMBER 1957

In the course of its first 2 years, the AFL-CIO has carried forward with diligence and vigor its policy of equal rights and of equal opportunities for all, regardless of race, color, creed or national origin. Our federation has taken firm steps to give practical application to its nondiscrimination policy and to win for its widest acceptance both within the ranks of labor and in the community at large.

Dedicated to bring about the full and equal rights for all Americans in every field of life, the AFL-CIO has provided leadership in the American community in taking timely actions to affirm and to secure these rights.

The AFL-CIO executive council, assisted by the committee on civil rights, initiated a number of practical programs to implement the principle of nondiscrimination proclaimed in the AFL-CIO constitution.

In this work, prior consideration was given to the removal of discrimination within the ranks of the AFL-CIO itself. For the enduring goal of our federation is to assure to all workers without regard to race, creed, color, or national origin their share in the full benefits of union organization.

To this end, machinery has been established to effect compliance with the AFL-CIO civil rights policy throughout the ranks of the labor movement. Com-

plaints, charging existence of discrimination by an affiliate, after staff investigation, are handled by a specially constituted compliance subcommittee of the civil rights committee. If, after diligent efforts to enlist the cooperation of the affiliate concerned and, after due notice and hearing, it is found that discrimination complained of still exists, the Committee on Civil Rights may certify the case to the executive council for appropriate action to effect full compliance with the AFL-CIO civil rights policy.

Gratifying and responsive cooperation has been extended by our affiliates in the effectuation of this vital program. A growing number of our affiliates, including national and international unions, as well as State and city central bodies, have established machinery of their own to administer and further their civil rights programs.

An important contribution to labor's progress in the civil rights field was the calling of the First National Trade Union Civil Rights Conference by the AFL-CIO in Washington last May. To exchange experiences, share the know-how and to hold common counsel on the best ways and means to win broad acceptance and support of labor's nondiscrimination policy is to lay groundwork for future progress, whether at the local union or the national level.

Of foremost concern to us also has been the assurance of equal employment opportunity to all workers. The use of nondiscrimination clauses in collective-bargaining contracts has been extended and now effectively bars discrimination in hire, tenure, and conditions of employment as well as in advancement to a better job, in a major portion of unionized establishments. Progress has also been made, on union initiative, to assure equal opportunity in vocational training and apprenticeship training programs.

We have participated in the work of the President's Committee on Government Contracts which coordinates and assists Federal agencies in the enforcement of nondiscrimination clauses in government contracts and have pressed for effective administration of this important program.

We have continued to back the enactment of enforceable state and local fair employment laws and the vigorous application of such laws.

On the national scene, the last 2 years have seen both progress and reverses in civil rights. The courts of the land have continued to insist that discrimination and segregation in schools, in public transportation, and in other public facilities are repugnant to basic constitutional guarantees of equality. Hundreds of communities have successfully implemented these decisions. But there has also been willful defiance of the law of the land, culminating in the disgraceful incident at the Central High School in Little Rock, Ark.

Labor's reaction to Little Rock was made unmistakably clear on September 24, 1957, when the AFL-CIO executive council unanimously declared "that the defiance of law and order in Little Rock by a mob of demonstrators against school integration is completely intolerable." The council voiced its support of Federal troops to enforce compliance with court orders, for failure to have used full power of the Federal Government would have meant defiance of the law of the land, threatening national sovereignty and bringing lawlessness in its wake.

While supporting the action of President Eisenhower's action in the Little Rock situation, we nevertheless feel morally obligated to express our keen disappointment, shared by millions of other Americans, at the failure of President Eisenhower and his administration to provide vigorous and positive leadership and initiative essential for the implementation of the historic Supreme Court decision of May 17, 1954. This failure created the tragic political and moral vacuum which encouraged the attitudes manifested in the Little Rock incident.

The passage of the Civil Rights Act of 1957, won after bitter struggle with strong support from the AFL-CIO, is a significant forward step in the ever-continuing struggle for human rights. The bill, as finally enacted, was weakened by the elimination of title III. President Eisenhower's failure to give backing to the inclusion of title III in the bill, led to this setback. Despite this and other weaknesses, the new law establishes new and far-reaching safeguards of civil rights proclaimed by the Constitution and the Bill of Rights.

The President has appointed the members of the Civil Rights Commission established by the Civil Rights Act of 1957. We look to the Commission and the Department of Justice to act vigorously to carry out the objectives of the law. It will be their responsibility to assure the enforcement of the right to vote

guaranteed to every American citizen. It will be their joint responsibility to expose the areas where civil rights are still being violated and to study and interpret the effects of these violations. It will be the Commission's responsibility to bring forward meaningful and practical suggestions for further action to assure inviolate exercise of civil rights by every American.

The role of government, national, State and local, is vital to the maintenance of freedom and democracy in our land. In the final count, however, the triumph of human rights will be best assured by the understanding, dedication and action of the people themselves.

Labor with other liberal groups will carry on its historic struggle for human justice in the spirit of brotherhood. As unionists, we hold that intolerance of race, creed, or color in our ranks or in our communities is incompatible with the principles embodied in our Constitution.

Resolved, That the AFL-CIO carry forward its historic drive to affirm and secure equal rights for all Americans in every field of life, and that the AFL-CIO continue to assure to all workers without regard to race, creed, color, or national origin, the full benefits of union organization.

We recommend that our affiliates set up internal civil rights committees and machinery for effective administration of a meaningful civil rights program within their ranks, working in close cooperation with the civil rights committee and the civil rights department of the AFL-CIO.

We recommend that our affiliates insist on nondiscrimination by employers in hire, tenure and conditions of employment, and in advancement of their employees. We urge our unions to include a nondiscrimination clause in every collective bargaining agreement they negotiate and to provide for effective administration of such a clause.

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We renew our support for the passage of an enforceable Federal fair employment practices act. We also call for enactment of enforceable fair employment practice laws by all States and cities not having such laws and for strengthening of such existing laws where necessary to ensure their effectiveness.

We again urge that, in order to assure full and fair consideration by Congress of proper civil rights and fair employment practice legislation, Senate rule 22 be changed to permit a majority of Senators present and voting to limit and close debate.

We renew our support of the decisions of the Supreme Court outlawing segregation in the public schools, in public transportation and in place of public accommodation. These decisions represent a heartwarming reaffirmation of the democratic American principles that are embodied in the Constitution of the United States. We call upon President Eisenhower to recommend and the Congress to enact legislation that will endorse and support, by implementing, constitutional guarantees of civil rights, including those affirmed by the Supreme Court decisions. We call upon the executive branch to make use of its full authority to effect implementation of these decisions.

We urge the National Labor Relations Board to adopt the policy that the use of race-hate propaganda during union organization campaigns is deemed to be interference with, and coercion of, employees and constitutes an unfair labor practice; and, further, that the use of such propaganda will be sufficient ground for setting aside an election upon request of the union.

We call upon President Eisenhower and the Department of Justice to launch an immediate and full-scale investigation into the activities of the so-called citizens councils now operating in Mississippi, Alabama, Georgia, Tennessee, Arkansas, Louisiana, South Carolina, and Florida, or anywhere else they may be operating, to determine if their activities and methods violate any Federal statute or the Constitution.

ATTACHMENT No. 2

STATEMENT OF THE AFL-CIO EXECUTIVE COUNCIL ON CIVIL RIGHTS, SAN JUAN, P.R., FEBRUARY 24, 1959

At its last meeting in November of 1958, the AFL-CIO executive council declared:

"We look to the incoming 86th Congress to broaden the civil rights law of 1957 so as to extend effective protection to every constitutionally guaranteed civil right of our citizens. Congress must assume basic responsibility for safeguarding freedom and for assuring equality before the law in our land."

In the period since the 86th Congress convened, there has been cause both for discouragement and for hope. On the one hand, the threat of filibuster continues to affect Senate consideration of effective civil rights legislation. On the other hand, so general and determined is the insistence that the Congress must act this year that a wide variety of civil rights bill have been introduced by powerful elements in both political parties.

Three principal "packages" of civil rights proposals have been introduced this year, in addition to many bills dealing with specific aspects of the problem. S. 810, the Douglas-Javits-Humphrey-Case bill (the Celler bill in the House) is essentially the same bill that was introduced last year and received the endorsement of the AFL-CIO. It represents the clearest and timeliest of the major proposals. While clearly upholding the Supreme Court decisions on school desegregation, it stresses positive, peaceful and cooperative solutions. It deserves and will have the support of all who truly believe in reinforcing our cherished constitutional freedoms.

The Johnson "package" contains several items which are essentially non-controversial and should be part of any final action. These deal with the criminal bombings that have taken place, the extension of the Civil Rights Commission, and subpoena powers in voting cases. The proposal for a Community Relations Service remains to be fully explained. The bill contains no proposals that deal directly with the crucial school issue.

The administration proposals constitute some steps forward in the area of desegregation. The proposed Federal grants to assist those school districts where desegregation causes financial hardship is sound and sensible, and we have long urged its adoption.

Conspicuously missing, however, from both the Johnson and the administration bills, is the vital part III which was deleted from the Civil Rights Act of 1957 and which is contained in the Douglas-Javits bill.

Except for the small minority of prosegregationist diehards in the 86th Congress, there is almost universal agreement on the need for additional civil rights legislation. There is reason to hope that the Congress will hammer out a bill that will constitute real progress. If a filibuster threatens to kill or cripple such legislation, it will then be necessary for men of good faith, without partisan considerations, to unite and kill the filibuster. It will not be easy with the present rule 22, but it can and must be done.

The year 1959 is the 150th anniversary of the birth of Abraham Lincoln. During this year may the Congress and the American people heed Lincoln's call:

"Let reverence for the law become the political religion of the nation."

Mr. BOOKBINDER. I will take a very few moments to summarize the highlights of the statement and then ask my colleague, Mr. Harris, associate general counsel of the AFL-CIO to add any remarks he may wish and then we are available for any questions that you might have.

Just a little over 2 years ago, Mr. Biemiller was here testifying in connection with a civil rights bill then pending and he concluded his statement with the hope that the job could be finished soon in civil rights, and now, 2 years later it is quite clear that the job is not finished.

But the 2 years have been eventful. During this period, a Civil Rights Act has been passed by the Congress.

We supported that enactment although we recognized as do most of the members of this committee, that the act was less than adequate.

The fact that it was less than adequate was soon very amply demonstrated by the events in Little Rock, and since. It is ironic, tragically ironic, that title III was dropped from the act because of the suggestions and pleas made that the enactment of that title would lead to the use of troops.

We found, as a matter of fact, that in a matter of days that failure to enact that title III created the kind of climate or helped create the climate which in the opinion of the President, required the use of troops in the Little Rock school situation.

Now we in labor, Mr. Chairman, recognize no less than any other group in society that a problem as delicate, as sensitive, as complicated, as difficult as civil rights cannot be solved overnight.

We cannot expect that any law or any decrees will suddenly wipe out racial tensions, prejudices, but we think there is a great need to work on the job all the time and take new steps all the time as the situation requires it.

We are not happy about the fact, but we are proud of the fact, nevertheless, that because labor has taken a strong position on civil rights we have suffered certain consequences.

Our organizational campaigns have not been helped in certain parts of this country because of the forthright position that we have taken.

It has been represented to us that perhaps we shouldn't be as bold as we are in this area.

We don't intend to compromise on the principle involved.

In Mr. Biemiller's statement, we quote Mr. William Schnitzler, our secretary-treasurer to that effect. This is a matter of principle and there cannot be any compromise. In that same spirit we respectfully petition the Congress to put itself on record in this matter of principle. It is a sad fact to record that in 5 years since the Supreme Court decision the Congress of the United States has as yet done nothing which can be considered an acceptance or enforcement or implementation of that Supreme Court decision, that historic decision of school desegregation.

We believe that the enactment of the Celler bill or the administration's bill would at the very least put the Congress on record in support of this important decision.

As our statement indicates we believe the Celler bill does a much better job in implementing that decision and all basic constitutional rights.

In a recent statement adopted by our executive council we refer to the Celler bill as the "clearest and the timeliest" of the major civil rights proposals pending before the Congress.

Now, we believe that H.R. 3147, the Celler bill, is a moderate bill in the best sense of that word "moderate."

It is a gross distortion to contend that this is punitive legislation; that this is force legislation.

The emphasis in the bill, an emphasis which we applaud is on negotiation, on conciliation, on education, on financial assistance, and only if the States and localities fail to take advantage of these new tools that would be added to the Government, only then would we have the invocation of title VI, which used to be called part III of the bill 2 years ago.

We therefore endorse the Celler bill as a constructive, positive step toward implementation of this important Supreme Court decision and for the general preservation and guarantee of equal rights in all respects.

Now, let me briefly just mention, without describing or detailing our position on them, several other proposals before the committee.

I have, by implication, told you our position on the administration bill. To the extent that it does endorse and attempt to implement the Supreme Court decision, it is a most welcome proposal.

Unfortunately, in our judgment, it does not implement that decision adequately, first, because of its failure to include part III and then because of its rather timid, altogether too timid approach in the areas of assistance to the States.

We do endorse very heartily the Administration provision that would require officials to preserve election records for 3 years.

We think this is a most constructive approach and the best one in this area of implementing the voting provisions of the Civil Rights Act of 1957.

We have had for many years now a working relationship with the present Committee on Government Contracts.

Mr. Meany, our general president and Mr. Reuther, one of our vice presidents, serve on that committee.

Because of these close contacts we are aware of both its accomplishments and its shortcomings.

We believe that the statutory authority would add to the prestige and effectiveness of that committee.

We share with others, though, the feeling that in its present form the bill does not give the proposed Commission the additional authority it ought to have for fully implementing the objective involved.

We would like to see that proposal strengthened in a way that would authorize the Commission to hold full dress hearings with subpoena power and to direct any Government contracting agency to terminate a contract or to refrain from making a new contract where, after reasonable warning, the Commission finds that discrimination has persisted.

Let me take advantage, if I may, for a moment to say that although the matter is not before the committee at this time, we believe that in the final analysis, the only real approach to fair employment guarantees is an effective Fair Employment Practices Act and we are hopeful that before many more years this will be the accomplishment of the Congress of the United States.

We did testify last year in the matter of the outrageous bombings which had taken place and we would certainly hope that any civil rights bill this year includes adequate provisions in that area.

We support the extension of the life of the Civil Rights Commission. But we further express the hope that extension will not be used as an excuse for failing to enact substantive legislation, the clear need for which has already been amply demonstrated over the years.

Mr. Chairman, we are pleased the subcommittee is acting so early in this session.

This provides us with some confidence that a good bill will be reported out sooner than might otherwise be the case. This provides hope for final enactment before this session of Congress is over.

The situation cannot wait. New legislation is needed and needed now.

Thank you very much.

Mr. RODINO. Mr. Harris, did you have a statement?

Mr. HARRIS. I have nothing to add; thank you.

Mr. RODINO. Mr. Miller?

Mr. MILLER. I think it is a very good statement you made. It is very fair.

Mr. BOOKBINDER. Thank you, sir.

Mr. MILLER. Mr. Bookbinder, in the AFL-CIO, are there still any local unions in the Longshoremens' Union or any other group that practices segregation, to your knowledge?

Mr. BOOKBINDER. Do we have locals that practice segregation do you mean?

Mr. MILLER. Or any discrimination.

Mr. BOOKBINDER. There are some locals that all white, and some that are all Negro at this time.

As far as the AFL-CIO is concerned, I think the important part of any answer we give you, and I invite Mr. Harris to add anything that he feels ought to be added, is that we have made, in our constitution, very clear that the elimination of all kinds of segregation and discrimination is a prime objective of the federation.

We have set up machinery, both a department of civil rights and a civil rights committee of officers to work on this problem steadily, and we have made progress in that.

In a recent public statement, Mr. Meany said very frankly that he knows we have not made as much progress as we might have made.

We are working on this all the time, and we have made requirements for affiliation to include nondiscrimination.

Now, I think that it ought to be said too, that the trade union movement is part of the American society. It cannot, by itself, correct this problem.

To some extent we will reflect the failure in society generally to wipe out discrimination.

Mr. RODINO. Or the success also.

Mr. BOOKBINDER. That is right. But, we are happy to note and we believe we are fair in saying that we do not merely reflect society.

We are significantly ahead of the pattern in society generally, but our job is not finished and in Mr. Biemiller's statement we so declare.

We are working all the time.

Mr. MILLER. Do you not have the right as of now to spell out, in the AFL-CIO, that discrimination will not be allowed and any union which practices segregation will be expelled?

Mr. HARRIS. I would say that the convention of the AFL-CIO has the right to expel any unions on any grounds, or on no grounds.

Mr. MILLER. Has it ever expelled any union so far because of segregation?

Mr. HARRIS. No.

Mr. MILLER. My point is, Mr. Bookbinder deplored the fact that Congress hadn't done something in 5 years and I am just wondering how your house sits.

Mr. HARRIS. You didn't let me finish my answer, sir.

Mr. MILLER. The problem that you have, and the control which you have over locals and over your member unions, that there should be practiced segregation in the union rather amazes me considering the stand of the AFL-CIO on the issue.

Mr. HARRIS. We have, I believe, refused at times to admit international unions because of their practices on segregation and we have also at times, secured from them or from their officers commitments to end segregation or to do what they could to end it as a condition of affiliation.

Mr. MILLER. Would you, for the purpose of the record, supply this committee with the names of the unions which you refused admission to because they practiced segregation?

Mr. HARRIS. Yes, I will be glad to do that.

(The information requested is as follows:)

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., April 7, 1959.

HON. WILLIAM E. MILLER,
*Committee on the Judiciary,
House of Representatives,
Washington, D.C.*

DEAR CONGRESSMAN MILLER: There are no affiliates of the AFL-CIO which practice any form of discrimination because of race, creed, color, or national origin.

In fact, such discrimination would be contrary to the stated purposes of the AFL-CIO constitution. The object of the AFL-CIO, stated in article II, section 4 of its constitution is "To encourage all workers without regard to race, creed, color, national origin, or ancestry to share equally in the full benefits of union organization."

This provision is reinforced by the resolution on civil rights of the AFL-CIO constitutional convention. A copy of this resolution is enclosed.

The standing committee on civil rights assists the AFL-CIO executive council in carrying out the purposes of the AFL-CIO civil rights program and policy.

One of our affiliates, the National Postal Transport Workers Association, did have a provision in its constitution, limiting membership to persons of Caucasian race. When it was called to the attention of the executive board of this union that this limitation is contrary to the AFL-CIO law, steps were taken by this union to have its constitution amended, by its convention action, to bring it into conformity with the AFL-CIO policy.

Accordingly, the constitution of the National Postal Transport Workers Association was amended by the association's convention action, eliminating the Caucasian clause and bringing the association in compliance with the AFL-CIO policy.

Two unions applying for affiliation with the AFL-CIO in 1958 had discriminatory clauses contained in their constitutions. These were the Brotherhood of Railroad Trainmen and the Brotherhood of Firemen and Enginemen.

The AFL-CIO executive council, in considering the applications of these unions in August 1958, voted to accept their affiliation, but only on the strength of a firm assurance by the applicant unions that their constitutions will be brought into conformity with the AFL-CIO policy at the next convention of each union. Neither union has yet held a convention since the date of affiliation with the AFL-CIO.

Attached are recent publications of the AFL-CIO describing its work in the field of civil rights in some detail.

Very truly yours,

THOMAS E. HARRIS,
Associate General Counsel.

AFL-CIO RESOLUTION ON CIVIL RIGHTS

Adopted December, 1957 by the Second Constitutional Convention of the American Federation of Labor and Congress of Industrial Organizations

CIVIL RIGHTS—RESOLUTION NO. 83

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The AFL-CIO executive council, assisted by the committee on civil rights, initiated a number of practical programs to implement the principle of non-discrimination proclaimed in the AFL-CIO constitution.

In this work, prior consideration was given to the removal of discrimination within the ranks of the AFL-CIO itself. For the enduring goal of our federation is to assure to all workers without regard to race, creed, color or national origin their share in the full benefits of union organization.

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Gratifying and responsive cooperation has been extended by our affiliates in the effectuation of this vital program. A growing number of our affiliates, including national and international unions, as well as State and city central bodies, have established machinery of their own to administer and further their civil rights programs.

An important contribution to labor's progress in the civil rights field was the calling of the first national trade union civil rights conference by the AFL-CIO in Washington last May. To exchange experiences, share the know-how and to hold common counsel on the best ways and means to win broad acceptance and support of labor's nondiscrimination policy is to lay groundwork for future progress, whether at the local union or the national level.

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We call upon President Eisenhower and the Department of Justice to launch an immediate and full-scale investigation into the activities of the so-called citizens councils now operating in Mississippi, Alabama, Georgia, Tennessee, Arkansas, Louisiana, South Carolina and Florida, or anywhere else they may be operating, to determine if their activities and methods violate any Federal statute or the Constitution.

REPORT ON THE AFL-CIO CIVIL RIGHTS PROGRAM

By Charles S. Zimmerman, Chairman, AFL-CIO Civil Rights Committee—To the Fourth Labor Conference on Civil Rights, endorsed by Chicago Federation of Labor and Cook County CIO Council; sponsored by the Jewish Labor Committee of Chicago, Chicago, Ill., November 8, 1958

There are people at work in America today whose purpose is to spread hate. They have been scattering the seeds of race hate, religious intolerance, disunity and distrust across the length and breadth of our land. Today they are reaping a harvest of violence, suspicion, and fear.

In some communities this has resulted not only in a wholesale denial of civil rights to citizens, but has reached the proportions of a virtual reign of terror.

On October 30, I received a telegram from the Rev. Martin Luther King, Jr. He wired:

"A virtual reign of terror grips Birmingham, Ala. Rev. F. L. Shuttlesworth and other Negro leaders arrested; denied bail; held incommunicado for 5 days; denied council; declared guilty and now face up to 3 months, as a result of a nonviolent effort to eradicate segregation.

"Three Montgomery clergymen offering spiritual comfort to Mrs. Shuttlesworth were arrested in her home. They were charged with vagrancy, denied counsel and ordered not to return to Birmingham.

"This is a part of a lawless pattern which results in bombing the churches, synagogues, schools, and homes. It is all the more fearful because in Birmingham it operates through constituted police authority. The jailing of these leaders is an act of terror designed to deprive Southern Negro communities of leadership."

Bombing of a school in Tennessee, dynamiting of a Jewish temple in Atlanta, all came in a closely linked chain of violent events, set off by hatemongers, bent on lawlessness.

Lawlessness, defiance of the constituted law, defiance of the courts, is, of course, the key to these outrages.

As the editor of the Atlanta Constitution pointed out, the dynamiting of a Jewish temple in his city "is the harvest of defiance of courts and the encouragement of citizens to defy law on the part of many Southern politicians." And he goes on to the conclusion that "it is not possible to preach lawlessness and restrict it."

And don't think for a minute that this spirit of unreason prevails only in the South.

Here we are in Illinois, "the land of Lincoln," as we are reminded by looking at any Illinois license plate. For an unvarnished account of what goes on right here in Illinois, turn to the October 1958 Atlantic, in which a distinguished

Chicago reporter, Fletcher Martin, tells a firsthand story of the treatment accorded a Negro traveler in Cairo, Marion, Colp, Belleville, and Carbondale.

It is a story of deep-rooted segregation and of the bitter humiliation experienced by the Negro citizen who is subjected to it.

It is against this unhappy background of stresses, strains, tensions and widespread unreason that I must report to you on the work of the AFL-CIO in the civil rights field.

It is a report of progress.

We in the labor movement have not only a civil rights policy, but also a civil rights program.

Ahead of everything else in this program is our determination to prevent and stamp out all discrimination because of race, creed or color in labor's own ranks.

Our goal is to assure to all workers, without regard to race, creed, color or national origin, the full benefit of union organization.

To this end, the entire resources of our labor movement are utilized. To apply this policy and to effectuate compliance with it, the AFL-CIO executive council is assisted by the civil rights committee. The staff work is carried on by the AFL-CIO Department of Civil Rights.

A compliance procedure has been instituted and the first responsibility for it has been placed in the hands of the compliance subcommittee of the civil rights committee.

Under this procedure, any complaint of discrimination involving a union is received by the AFL-CIO Department of Civil Rights and is checked by it, with the help of the AFL-CIO field staff. Valid complaints are brought to the attention of the national or international union concerned, for adjustment. In 9 out of 10 of the cases, we have had prompt and helpful responses from the affiliates concerned.

When no compliance is readily effected, the case is carried through the process of conferences and hearings in which all concerned are given a chance to be heard. If necessary, and as the final step, the civil rights committee may certify the case for appropriate action to effectuate compliance, to the executive council of the AFL-CIO.

But the AFL-CIO Civil Rights Committee is not doing this work alone. The second constitutional convention of the AFL-CIO, meeting in Atlantic City in December 1957, called upon all AFL-CIO affiliates to set up their own "internal civil rights committees and machinery for effective administration of a meaningful civil rights program within their ranks, working in close cooperation with the civil rights committee and the civil rights department of the AFL-CIO."

Accordingly, a network of civil rights committees is being established across the land by our local and state central bodies. Let me note that every newly merged central body, North and South, had adopted a civil rights policy and set up a civil rights program of its own.

These State and local agencies, in turn, are driving for the establishment of a civil rights committee by every local union affiliated with them. So that, in time, we shall assure not only widespread dedication to the principle of equal opportunity, throughout labor's ranks, but also programs of effective action in which our membership will take a direct and positive part.

An equally vital task to which our civil rights program is geared is to eliminate discrimination of employment, by employers, because of race, creed, color or national origin. We investigate and press complaints involving such discrimination in employment. These include not only discrimination in initial hiring, but also any discrimination in advancement, tenure and conditions of employment. We likewise are driving for nondiscriminatory operation of all training and apprenticeship programs.

It should be recognized that on the industrial scene in America today, the trade union is the most important single institution in the drive for equal employment opportunities. Nondiscrimination clauses written into collective bargaining agreements with management on union initiative provide an important tool for making nondiscrimination in employment truly effective. Today a major portion of American industry is covered by union agreements containing such clauses. And unions vigilantly insist on the enforcement of the terms of these clauses through grievance procedures provided in their union contracts.

The AFL-CIO Civil Rights Department is providing technical assistance to affiliates by placing in their hands sample contract clauses already in effect.

Our labor movement has been alert and responsive to the challenge of civil rights of every American in every field of life. We have led in the legislative

battle for a proper civil rights law and are continuing to insist on broadening its application.

The ranks of the trade union movement have been vibrantly responsive to labor's insistent call for justice, nationally as well as locally.

As reported by Drew Pearson, when children were bombed out of their school in Clinton, Tenn., one of the earliest offers of help came from the AFL-CIO Building and Construction Trades Council of Knoxville, just 20 miles from Clinton, and from the Bricklayers, Masons and Plasterers Union, AFL-CIO. These unions offered to contribute voluntary labor to rebuild the Clinton school.

Labor has a special stake in free public schools as an American institution. A hundred and thirty years ago, in 1828, an association of workingmen in Philadelphia called for free public schools as the basis of universal education in the United States.

In 1834, a convention called by all the trade unions in the country, urged "the necessity of equal, universal system of education" in our Republic.

Today, thousands of children, not by choice, but through necessity, are playing hooky from their schools. All this is a part of the campaign of "massive resistance" to the courts and the law of the land instigated by men of ill will and promoted by the Governors of Virginia and Arkansas.

The pattern of resistance and evasion of the law takes many forms: the so-called "pupil placement" plans, the replacement of free public schools with private, tuition-charging schools, and even outright closing of schools without any provision for the schooling of the children affected.

American labor has always believed and believes today that free and equal public education is the birthright of every American child.

Nearly a hundred years ago, labor began its drive for compulsory school attendance laws for all children between 7 and 15 for at least 10 months a year. Labor also launched and led the drive for the furnishing of free textbooks to school children at state expense.

These are the things we have now. They have become basic institutions of our American democracy. These are the things on which we insist.

We insist also that equal rights of all Americans in every field of life, rights established by our Constitution and safeguarded by the courts of the land, be held inviolate and secure.

To overcome massive resistance to the law and mass disruption in the education of our children, we call on all men and women of good will to join in a campaign of massive insistence on free public schools open and available as a birthright to every American child throughout the land.

Our cause is just. We press it because we feel that it is right, it is neighborly for us to insist on equality for all. We are doing it because we believe that we are our brothers' keepers.

I am confident that our cause will prevail. But in order to gain our goal of equal opportunity for all, we must make sure that every trade unionist becomes an active recruiting officer on behalf of our just and vital cause.

Mr. HARRIS. In Mr. Bookbinder's statement, he left out a sort of intermediate step in our structure which I am sure you understand.

The AFL-CIO is principally an organization of international unions of some 130 in number.

We have a few local unions directly affiliated, maybe 600 of them, but for most purposes we are simply an organization of international unions and the direct relationship with the local unions around the country is by the particular international union of which it is a part.

So we don't in all cases actually have full information about what the practice may be in every local union of every international affiliated union with us.

Mr. MILLER. But you could get it?

Mr. HARRIS. We could get it.

Mr. BOOKBINDER. Mr. Miller, may I suggest that the analogy you have drawn is not entirely accurate.

I have asked in my initial statement that the Congress at the very least, at the very least declare itself in favor of the things that you and I both believe in, and that it should try to implement that.

I hope you are not suggesting that in the AFL-CIO we have failed to do that.

We have made in our constitution and in our actions on a daily basis, very clear that discrimination is not to be tolerated, and we have proceeded to implement that.

I also indicated earlier that I don't believe that a declaration by the Congress or the passage of any law will in itself, by itself, automatically erase the problem that we are talking about.

Certainly, I would hope that the Congress will do as much in this area as we are doing in our Federation to correct this problem.

Mr. HOLTZMAN. In other words, Mr. Bockbinder, you are not coming here and telling us that there is no problem whatsoever in your union.

You are saying you have done everything humanly possible thus far to affirm your desire to keep discrimination out of the union, at least to affirm it and to follow it up and implement it and I think that is a matter of record well known by the country that the trade union movement has been steadfast in its adherence to civil rights for all people.

I don't think anyone doubts that on this committee or in Congress.

Mr. BOOKBINDER. We are very proud of the fact, sir, that in many parts of the country, in literally hundreds of communities, the only activities, the only organizations that are not conducted on a segregated basis are trade union meetings and organization activities.

This is something we are very proud of.

Mr. MILLER. I have no further questions.

Mr. HOLTZMAN. Thank you very much.

We will now hear from Mr. Paul Sifton, the national legislative representative of the United Auto Workers.

Mr. Sifton.

STATEMENT OF PAUL SIFTON, NATIONAL LEGISLATIVE REPRESENTATIVE OF THE UNITED AUTOMOBILE WORKERS

Mr. SIFTON. Mr. Chairman, on behalf of more than 1 million members of the UAW, in obedience to the letter and spirit of our union's constitution since its birth, pursuant to action by our last regular convention and by direction of UAW President Walter P. Reuther, I present this statement in support of the comprehensive, humane, realistic and effective civil rights bill, H.R. 3147, introduced by Congressman Celler and other Representatives in the House and by Senators Douglas, Javits, and others in the other body.

Without in any way lessening or qualifying our complete support of that bill, we also find value in certain provisions, such as authority to inspect voting records, of the administration bill (H.R. 4557) in the fields set forth in the summary comparison of various civil rights bills published March 2, by the leadership conference on civil rights and, we assume, a part of the record of this hearing.

I believe Mr. Wilkins was given permission to put that in the record.

We subscribe to the conclusions reached in that comparison, its endorsement of the Celler bill (H.R. 3147) and its recommendations for amendments to (H.R. 4557), particularly to (1) give the proposed

new statutory Commission on Contract Compliance power to hold hearings and issue subpoenas and, upon a finding that discrimination has continued, to direct any Government contracting agency to terminate a contract or to refrain from making a new contract with a violator, and (2) if the temporary Civil Rights Commission is to be continued, as proposed, to authorize the Commission to investigate all denials of civil rights because of race, color, religion, national origin, or ancestry.

Because chronic large scale unemployment appears to be a continuing characteristic of our economy, tolerated by the Eisenhower administration as the assumed only alternative to assumed inflationary pressures of full employment, the need for early enactment of an effective Federal FEPC law to supplement successful State FEPC laws has been made more obvious, both in layoffs of minority group workers with low seniority and in rehiring and new hirings.

Early enactment of an effective Federal FEPC law is an item in the recently adopted UAW program to put America back to work. We urge you to report out such a bill favorably at the same time you act upon H.R. 3147.

Any of the standard FEPC bills that have been introduced by Congressman Celler and others year after year, only to be killed by the threat of a Senate filibuster, have, of course, never been used, are as good as new and will do the job if made law and enforced in good faith. Any such FEPC bill should, of course, provide for Federal enforcement through the courts in those few instances in which information, education, mediation, and the issuance of findings and orders have proved ineffective. All these steps may precede and reduce the need for court enforcement, but to substitute them for the ultimate power of court enforcement would be to make the law merely good advice, to be ignored or flouted at will.

THE NEED DESCRIBED IN 1955, 1957, AND 1958 HEARINGS EXISTS IN 1959

Instead of again offering a recapitulation of the long effort to achieve full civil rights for all Americans in all parts of the United States, we refer to UAW testimony and statements appearing at pages 311-342 of your committee's 1955 hearings on then pending civil rights legislation, and at pages 769-790 of your 1957 hearings, which precede House passage of a comprehensive civil rights measure, subsequently reduced, under threat of Senate filibuster, to (1) some protection of the right to vote, and (2) creation of a temporary Civil Rights Commission with limited and, we believe, inadequate power even to investigate and report, much less to obtain compliance.

We submitted a similar statement to your committee in the summer of 1958; we understand those hearings have not yet been published, but will be printed in the record of these hearings.

We believe the statements we made in the 1955, 1957, and 1958 hearings regarding the need for civil rights legislation were valid then and are valid now.

Your committee has already received, from other witnesses, we believe, evidence that much progress has been made in all parts of the country, including some communities in the South, toward compliance with the Supreme Court's 1954 decisions that school segregation is unconstitutional and must be ended with all deliberate speed.

Moreover, witnesses last year and this year have supplied proof that resistance to the Court's decisions has been encouraged by the failure of the President to support and the Congress to implement these decisions on segregation in schools and other public facilities, including transportation.

While we do not propose to duplicate such testimony, we must in good conscience put before you a summary of the civil rights situation as we see it in order to demonstrate the pressing need for action by your committee, by the whole House, by the Senate Judiciary Committee and by the whole Senate so that meaningful civil rights legislation will be enacted before adjournment.

THE PRESENT SITUATION—THE TRAGIC COST OF INACTION

The outstanding feature of the civil rights picture is the effect of the Supreme Court's 1954 school integration decisions. These decisions are being complied with or defied in varying degrees in different parts of the country:

Outside the South—compliance is general.

In the upper South—slow, but enough to keep a glimmer of hope alive.

In the Deep South—virtually not at all.

Three factors have reinforced segregationist sentiment in the past 5 years:

1. President Eisenhower's refusal to go beyond the simple assertion that the law of the land must be enforced. He has never supported the Court decisions by saying that he, himself, agrees with those decisions.

2. Neither President Eisenhower nor the Congress has acted to answer the Southern manifesto of defiance issued by nearly all Southern Senators and Representatives in both parties.

3. The action of the Senate in August 1957, striking from the civil rights bill authority for the Attorney General to obtain injunctions against violations of civil rights other than the right to vote, which now has this protection, at least in some degree.

When in the summer of 1957 the Senate struck part III from the civil rights bill, Governor Faubus of Arkansas, and others willing to use the segregation issue for political advancement, were listening.

When President Eisenhower delayed signing the civil rights bill for several critical days while schools were opening, Faubus and his kind were further encouraged. They had been given priceless time in which to whip up segregationist sentiment and to intimidate moderate sentiment in Little Rock and throughout the South. They have been given more time since.

The shame of Little Rock is not only Faubus' and the South's, it is also the shame of the President, of the 84th and 85th Congresses, and the American people who accepted frustration of majority will by the veto of the filibuster.

We have in a very small and insufficient measure atoned for that shame, which, it is likely, has damaged our standing in the free world more than the Soviet success in launching the first Sputnik. Ernest Green, the Negro boy who graduated from Little Rock High School, last year was able to receive his diploma and return to his seat without booing, or more violent incident.

Of equal or greater significance, 14 classmates were proud to write in his class yearbook their respect and admiration for his courage during the school year that began so badly and ended so well.

It may be that these 14 boys and girls are not only the hope of Little Rock and Arkansas and the South and the United States, but support man's hope that decency and civil rights and civilization may be saved. "If there be one just man in Nineveh, the city shall be saved."

This battle for the minds and hearts of men goes on daily with gains and losses, set forward by court decisions here, set back by court decisions and other incidents there. We, who believe in the democratic process and stake our lives upon its superiority over other forms of government, believe that the fight must be advanced by sober, responsible words and actions to support the courts.

Likewise, we believe that silence, double talk or delay give aid, comfort, and encouragement to segregationists and their allies along the whole antidemocratic front. It is nearly always true that those who are anti-Negro are also anti-Semitic, frequently anti-Catholic and mostly antilabor.

Damaging as our civil rights shortcomings are to us at home, they are perhaps more damaging to America abroad, particularly among the two-thirds of the world's peoples who, being colored, listen to and watch our words and our deeds—and lack of deeds—in civil rights.

1958 CIVIL RIGHTS ACTIVITY BY THE EXECUTIVE BRANCH WAS SLIGHT

In the first year of life under the Civil Rights Act of 1957, the Civil Rights Division in the Department of Justice gave little evidence of aggressive investigation and enforcement of even the civil right to vote. As primaries were held in one Southern State after another where primaries are tantamount to election, various subterfuges and devices were again used to assist those who have organized to resist civil rights all along the line, including school integration, the right to vote, the right to unsegregated transportation and other public facilities.

COMMITTEE ON CONTRACT COMPLIANCE NEEDS POWER TO ENFORCE

In the employment field, efforts continue to wipe out discrimination in plants having Government contracts. This work is under the direction of the Committee on Contract Compliance set up by President Truman and continued by President Eisenhower.

Although every Government contract carries a provision prohibiting discrimination in employment, the Committee has yet to obtain the first cancellation of a contract for violation of this provision.

The preliminary steps of complaints, investigations, reports, findings, recommendations and pleading by the Committee and by officials in the Federal Government's procurement agencies and the Department of Labor need at least some examples of enforcement up to and including cancellation of contracts. A few such cancellations would have wholesome educational and deterrent effects.

The labor members of the Committee and their alternates have become more and more impatient. They are becoming more and more insistent upon some effective action that will give backbone, force and effect to the antidiscrimination clause in Government contracts and

thereby justify the existence of the Committee. The strengthening amendment we have already proposed will meet this need, if enacted and applied in good faith.

THE NEED FOR CIVIL RIGHTS LEGISLATION CONTINUES

The work of implementing civil rights in employment and other phases of community life is making substantial progress in many States and local communities. But progress continues to be greatest where injustice is least acute and is least where injustice is greatest.

The need for additional civil rights legislation, including a permanent FEPC, continues. It is a bitter fact that, if the Congress had enacted an effective FEPC law immediately after President Franklin D. Roosevelt's wartime FEPC was killed by the Russell rider attached to an appropriation bill under threat of filibuster, adult workers could have pioneered in working out the adjustments of integration, doing so on the job, instead of leaving it to children, their parents and the courts alone.

It is a tragic fact that, with the single exception of the bobtailed Civil Rights Act of 1957, cut down under threat of filibuster, in the past 6 years neither the Congress nor the executive branch has taken the lead or even acted to implement the pioneering work of the courts, usually looked upon as the keel, rudder, and sea anchor of our system of government.

Lacking sail or propeller, the courts, though unaided by the other two branches of Government, have managed to hold a steady forward course in the great currents of change that sweep the world.

As has already been shown in earlier statements presented by others, attempts to obtain compliance with the Supreme Court's decisions on school integration urgently need the support that can best be given by the Congress, doing in 1959 what the House proposed to do in 1957 in part III, stricken in the Senate.

HOW H.R. 3147 WILL HELP—TITLE BY TITLE SUMMARY

H.R. 3147 is a great improvement over part III of the 1957 bill in that it provides a step-by-step approach, offering Federal assistance in the necessary make-ready stages. As others have set forth in detail in these hearings, this bill does three things:

1. It declares and accepts Federal legal and moral responsibility for implementing the constitutional requirements of desegregation.
2. It provides vitally needed technical and financial assistance and Federal leadership to States and local communities whose schools are still segregated.
3. It provides Federal legal assistance where private parties are unable to defend the constitutional rights of our school children and others to equal protection of the laws.

Title I is a proclamation of Federal legal and moral responsibility for desegregation.

Titles II, III, and IV set up machinery for Federal cooperation by Federal assistance and Federal planning to promote orderly compliance with the Supreme Court's mandate.

Under title II, the Secretary of Health, Education, and Welfare is authorized to promote desegregation by the compilation and dis-

tribution of helpful information, including successful case histories of desegregation, by the arrangements of conferences to discuss ways and means of eliminating segregation, through the appointment of advisory councils, through the provision of specialists' services in local communities and generally by rendering technical assistance not easily available in a particular community. For these purposes, appropriations up to \$2.5 million a year for 5 years are authorized.

Title III would authorize the Secretary to make grants for school facilities in areas where the chief block preventing or hindering effective compliance is lack of adequate buildings or other physical equipment. It would also provide grants for employing additional teachers, inservice teacher training, employment of specialists in desegregation programs, short-term training courses and other educational measures needed to eliminate segregation without lowering existing educational standards.

As other witnesses have emphasized, title III's most important immediate function may to provide funds to local communities seeking to comply with the desegregation mandate but threatened with discontinuance of State funds. Section 301(b)(4) provides funds for "replacement of State payments to a school district or other political subdivision withdrawn because the applicant district or subdivision is eliminating or starting to eliminate, segregation."

Appropriations up to \$40 million a year would be authorized to meet the costs of title III's grant programs.

Title IV provides that, when other methods fail, the Secretary of Health, Education, and Welfare shall act, accept, and exercise responsibility for initiating the development of desegregation plans, utilizing local consultation and participation to the fullest possible extent.

Only if and after titles I, II, III, and IV fail in the achievement of orderly desegregation in compliance with the Supreme Court mandate is there to be resort to the legal power to bring about compliance.

Title V confers the power to file compliance actions in school cases in connection with the schools' desegregation plans, when the Secretary certifies that all efforts to secure compliance by conciliation, assistance and otherwise have failed.

And finally, as a last resort, title VI, which is the vastly improved equivalent of the 1957 bill's title III stricken out in the Senate, provides authority for the Attorney General to bring legal action in cases where State or local officials deny any person the equal protection of the laws on account of race, color, religion, or national origin, but only upon a signed complaint and when in the judgment of the Attorney General the person aggrieved is unable to seek effective legal protection for the right involved.

The Attorney General is also authorized in title VI to start suits against those who attempt to prevent local officials from according persons equal protection of the laws or who act to hinder the execution of court orders for equal protection. The Attorney General may proceed against efforts to deprive persons of their rights under the 14th amendment because such persons are opposing denial of the rights of others. And he is explicitly authorized to intervene in cases brought by others for relief against the denial of equal protection of the laws because of race, color, religion, or national origin.

"THE TIME FOR ACTION IS NOW"

We believe H.R. 3147 is moderate, reasonable, practical, and an overdue necessity for further progress toward the enjoyment of full civil rights for all Americans in every part of our country. Twelve years ago, in publishing its historic report, the President's Committee on Civil Rights ended its statement with the words, "The time for action is now." Twelve tragic years of delay, stained with the sweat, the tears and, too often, the blood of American men, women, and children, should spur action now.

It is true that great progress has been made in many areas of civil rights and in many parts of the country, even in the Deep South. But the refusal of the President and—because of the Senate filibuster—the failure of the Congress to act promptly to support the Supreme Court's desegregation decisions and orders thereunder has resulted and is continuing to result in dangerous slippage.

This slippage has now spread to the courts themselves.

This makes the entire civil rights situation critical as of this moment, March 1959. It can mean new boldness by segregationist forces in the weeks ahead. It can mean new defiance when the schools reopen next September. It exposes the American people and the Nation to the danger of more Little Rocks.

In these circumstances, inaction by the 86th Congress is bound to be interpreted by the enemies of school integration and of other civil rights for all, as acquiescence and consent to their campaigns and devices for promoting resistance to the Court's decisions not only in school segregation, but across the whole civil rights front, including the right of workers to organize and to bargain collectively through free democratic unions of their own choice.

For these reasons, we urge your subcommittee and the full Judiciary Committee to act with all possible speed to bring H.R. 3147 to the House floor for passage at the earliest possible date so that congressional action and presidential approval can be had before adjournment, 5 months hence.

Mr. RODINO. Thank you very much, Mr. Sifton, for a very fine statement.

I appreciate the sincere interest, as you have always demonstrated in this problem.

Mr. Holtzman, did you have a question?

Mr. HOLTZMAN. I have no questions.

Mr. RODINO. Mr. Miller?

Mr. MILLER. Mr. Sifton, I notice on page 2 of your statement which I don't quite understand and maybe you can explain it to me.

You say, and I quote:

Because chronic large-scale unemployment appears to be a continuing characteristic of our economy, tolerated by the Eisenhower administration as the assumed only alternative to assumed inflationary pressures of full employment, the need for early enactment of an effective Federal FEPC law to supplement successful State FEPC laws has been made more obvious, both in layoffs of minority group workers with low seniority, and in rehiring and new hirings.

I come from just outside of Buffalo, N.Y., and I was always under the impression I had an erroneous one, that in these companies like Bell Aircraft and Carborundum Co., and Bethlehem Steel Corp.—

companies of that type, that all of the layoffs and rehiring were controlled by the union contract.

In other words, the contract with the union itself controlled the layoffs and rehiring.

I used to be a lawyer for some of these situations and that was many years ago, but I realize the situation has changed.

I was under the impression that the nature of the contract with the union provided just exactly which people and in what seniority groups should be laid off first, and also provided on the same basis for rehiring of those people.

Mr. SIFTON. You have an accurate memory, sir.

That is very true of our union, but we only have a million members and the entire organized labor movement has about one-third of the labor force and we are not able to have the same conditions appear throughout American industry that we had written into our constitution and into our contracts, as you state.

Mr. MILLER. But you say you have a million members. Are you talking about the UAW?

Mr. SIFTON. Yes.

Mr. MILLER. But that generally is true of any organized union group. In other words, whether it be the UAW or the United Steel Workers or whatever union it is. I would say in general that they have those provisions in the union contract, don't they?

Mr. SIFTON. We are proud to say this is almost entirely true, yes, and I am very proud to say so.

Mr. MILLER. So that whether you had any Federal laws or not on the subject as far as all people who are in the organized union movement are concerned, they are already protected by union contracts as far as discrimination is concerned.

Mr. SIFTON. Once they have been hired.

Mr. MILLER. Yes.

Mr. SIFTON. This is also a matter of concern to us. We have some feeling about this.

Mr. MILLER. I realize that, but you didn't bring that point out.

You say, and I quote again:

The need for an effective FEPC law to supplement successful State FEPC laws has been made more obvious both in layoffs of minority group workers with low seniority and in the rehiring and new hirings.

Mr. SIFTON. Yes, but this applies to the new hirings.

What we are talking about here, we try, but this is a matter of pleading and negotiation with the employers to have them be fair in their hiring of new persons.

We cannot control that or have any final say at all, in any degree in that matter.

Then, as to the matter of rehiring, this applies conspicuously to unorganized plants.

Mr. MILLER. Yes. I also note here on page 4 where you say:

Neither President Eisenhower or the Congress has acted to answer the southern manifesto of defiance issued by nearly all Southern Senators and Representatives in both parties.

Would you say that the President's action in sending Federal troops to Little Rock, Ark., was at least an action against those in defiance of the Federal court order?

Mr. SIFTON. I think you have a point there. That is an exception, but as we have stated elsewhere here, if he had acted earlier in signing the bill and if in August he had not agreed with Senator Russell and said I don't know what is in the bill and agreed that if what Senator Russell said was in the bill he was against it, then we would have had a stronger bill and in our opinion we would not have had what is known as Little Rock.

Mr. MILLER. Walter Reuther was for reconversion of the bill, and he said so.

Mr. SIFTON. I am glad you brought this up. I heard your reference to it earlier.

Mr. MILLER. I had his statement in the record.

Mr. SIFTON. It is a joint statement signed by 17 organizations.

I ask that the joint statement, if the chairman please, be put in the record in connection with these discussions.

That statement was issued at a time when there were those who preferred a live, political issue to a bobtailed civil rights act. We did a very careful consideration of the matter. As stated in that joint statement, we felt it was a woefully inadequate bill in the form in which it came out of the Senate to the conference, but "We said we hope the House can strengthen it" and the record will show that the House did strengthen it, and the bill became law.

There was substance in that bill, and if it had been held to a deadlock, Congress, in our opinion, would have adjourned with no bill whatever on the statute books in 1957.

Mr. MILLER. I agree with everything you say. You did come out in favor of the weaker version because it was your considered judgment that if you did not, and there wasn't a crystalization of public support behind the weaker version, there would have been no version at all.

Mr. SIFTON. I will take your phrases, if I might add this, that we came out in favor of a weaker version rather than no bill at all.

Mr. MILLER. Exactly.

Mr. SIFTON. We preferred a bobtailed, but substantial bill, rather than a mere political issue.

Mr. MILLER. Exactly. Now, how many days did it take the President before he signed the civil rights bill?

Mr. SIFTON. I think it was to the last available day, as I recall.

Mr. MILLER. Well, how many days?

Mr. SIFTON. What was it—10? I am no lawyer, you know.

Mr. MILLER. You made a point in your affirmative statement that it was the delay in the number of days that created this tension.

Certainly, you ought to know how many days there were.

Mr. SIFTON. My recollection was at the very last day, a Saturday at Newport, R.I.

Mr. MILLER. How many days elapsed between the passage of the bill and the signing by the President? Do you know?

Mr. SIFTON. I suppose probably 10 days elapsed between the time it was sent to the White House and the time he signed it.

Mr. MILLER. And you say that after the Congress had passed the bill which actually was a weaker version, then the administration itself had asked for, you say that the delay in the signing of the bill by the President encouraged defiance and created incidents that otherwise

would not have occurred if he had signed the bill, or just appended his signature to the bill 10 days earlier.

Is that what you are saying?

Mr. SIFTON. Many people, I believe, share the feeling that if he had signed it as soon as it hit his desk or within a day or so, it would have made some difference, a great difference.

Mr. MILLER. This is the first time that I ever heard that there was any doubt in the minds of anyone anywhere, publicly stated, published or otherwise, that there was ever any doubt in anybody's mind that this country thought the President would not sign the bill.

I don't see where the timing of his signing it would have made any difference.

Mr. SIFTON. We haven't brought another factor into this conversation.

There was a trip from Little Rock to Newport, R.I., by Governor Faubus that entered into this entire development of attitude.

I think it is fair to state that was a fact and there was some confusion as to whether there was an understanding or not an understanding, and about what.

Mr. MILLER. Where do you get your information?

You know, you are speaking here for the record. Where do you get your information?

Mr. SIFTON. I didn't say there was any question about whether he would sign the bill. I haven't stated that.

Mr. HOLTZMAN. Mr. Sifton, are you saying in substance that if the President got the bill on his desk and signed it and then made an announcement, it would have given more substance to everything surrounding the transaction and the enactment of the legislation?

Mr. SIFTON. That is our very, very profound feeling.

Now, Mr. Chairman, if I may go back to the matter, the bill that he got was a weaker bill than the administration asked for.

The administration asked for it some time in March or April of 1957. The administration sent up its recommendations, I believe, but at any rate that was the description.

As I understand it, as a realistic matter it was modified by the President's statement in the middle of the summer of 1957 at a news conference following a statement by Senator Russell as to what was in the bill. I think that as a realistic matter you must consider that the bill was in substance the administration's bill for practical purposes, and was somewhat reduced by the statement of the President.

Mr. MILLER. Isn't it a fact that the present recommendations came to the Congress in January? As a matter of fact, Mr. Celler didn't introduce his bill until March of 1957.

Mr. SIFTON. I stand corrected.

Mr. MILLER. But we held hearings, didn't we, Mr. Counsel, in late January?

Mr. SIFTON. I stand corrected. There have been so many grounds on these bills through the years that I am confused and am very glad that you corrected the record on it.

Mr. MILLER. I have nothing further.

Mr. RODINO. Thank you, Mr. Sifton. We appreciate your coming here and that will conclude the witnesses for this afternoon.

(The following statement was received for the record:)

STATEMENT OF ALBERT WHITEHOUSE, DIRECTOR, INDUSTRIAL UNION DEPARTMENT,
AFL-CIO

The industrial union department, AFL-CIO, is made up of 69 unions having an industrial worker membership of 7 million. It is an autonomous department of the AFL-CIO and fully supports the policies of the parent federation.

The IUD has very specific interests in the passage of effective civil rights legislation. Its membership includes substantial numbers of religious and racial minorities.

Over recent years, significant progress has been made in industry in obtaining equal rights for all. Today, Negro and white workers are employed side by side in many factories. Progress has been made in the South although an enormous problem of equal job rights remains.

This is not to say that equal rights have been won on the job. But our industrial unions have played an important part in enforcing fair employment practices through contract provisions which insist that there shall be no discrimination because of race, creed, sex, or national origin.

We have long taken the position that there shall be no second class economic or political citizenship for ethnic, racial, or religious reasons. We are of the view that further progress in civil rights can best be made on the job, politically, in housing, and in other vital areas of our national life only by the passage of legislation placing real responsibility upon the federal government and giving to the federal government adequate power to secure law enforcement.

That progress can be made in civil rights as a result of law has been shown in the results of the Supreme Court school integration decision. The recent step forward in Virginia indicates that most of the nation believes in the rule of law and that the law can be implemented provided that enforcement powers are clear.

Recently, educators from the so-called border States met in Nashville to review progress in integration. The conference found that where there has been determined community leadership, at least a start has been made. Given adequate Federal responsibility in this area, the communities will tend to produce determined leadership of the kind required.

Unfortunately, there has been no example of determined leadership for school integration from the Federal Government. The Nashville conference heard a member of the Anderson County (Tenn.) School Board, which includes the town of Clinton, decry the lack of Federal aid to the community in meeting the problems arising when the community sought to carry out the decisions of the Supreme Court. This local school board member asserted that the Federal Government was "completely indifferent" to the plight of the community. He also declared that the Federal Government had "failed miserably" in its duty.

Speaking from experience this local school board member urged that the Federal Government take on the responsibility of policing desegregation to protect communities seeking to obey the law. He asked also for passage of a law making it a Federal offense to bomb schools.

With Federal responsibility clearly stated, there can be no ducking of responsibility by the leadership of the Nation. Congress has the obligation to meet communities like Clinton at least halfway. Citizens seeking to obey the law are entitled at least to the knowledge that they have both the moral and, if needed, the physical force of law with them. Congress must legislate in this direction if we are to move forward in the field of civil rights.

We need not point out to you the impact upon U.S. internal civil rights policies upon the world at large. The struggling new nations of Asia and Africa are not to be won with fair words alone. By progressing in the field of civil rights, we can electrify the world. Certainly, the best answer to Communist totalitarian promise of equality is democratic performance.

We know that the patterns of any given community cannot be altered overnight. But with proper Federal responsibility and law enforcement, a long start can be made. Our job is to make good on the promise implicit in the right to democratic franchise. While some citizens are denied the vote because of skin color, the democratic rights of all are endangered.

Certainly, there is no room in the United States of 1959 for official blinking at racist theories that declare that one man is inferior to another because of religion or skin color. Not even the politest form of Hitlerism deserves back door tolerance by law. While local custom cannot be expected to evaporate by command,

reasonably paced adjustment can come if there is understanding that the 20th century has come to stay.

There is now before your committee a bill introduced by Representative Emanuel Celler which would assure that the Nation will move forward if it is adopted by this Congress. The IUD salutes Congressman Celler for his unyielding fight to obtain equal rights for our citizens.

The IUD is happy to note that H.R. 3147, the Celler bill, approves the Supreme Court school desegregation decision as expressing the "moral ideas" of the United States and its Bill of Rights. It urges inclusion of such approval in any measure reported out by your committee. It also is happy to note that the Celler bill calls for protection by all "due and reasonable" means of the rights guaranteed by the Constitution and the Supreme Court decision. The IUD urges retention of this proposal in any measure gaining your final approval.

Inclusion of these provisions will do much to guarantee equal rights under the law and peaceful transition with "all due deliberate speed" to integrated schools. It will also do much to end "Jim Crow" in public transportation, in public parks, and to establish the free use of other tax supported public facilities.

The administration has indicated a willingness to go along with the proposal recognizing that the Supreme Court decision is the law of the land. But, once again, it appears unwilling to accept its responsibility to lead. It has ducked the issue of enforcement "by all due and reasonable means" and for this reason alone its proposals are unsatisfactory.

The leadership of the other chamber of the Congress has proposed a civil rights measure that simply seeks conciliation of disagreements on civil rights, rather than enforcement of the law. The industrial union department is unequivocally opposed to such a bill. Civil rights belong to all by virtue of citizenship and humanity. They are not to be traded away or bargained away or subjected to horse trade. Such a proposal is unworthy of the traditions and aspirations of the people of the United States of America.

We urge inclusion in any measure approved by your committee of authority for the Secretary of Health, Education, and Welfare to provide technical assistance to communities seeking to desegregate. We urge also that provisions authorizing grants for additional school facilities, teacher training, for employment of specialists, and for aid to schools where the State threatens to cut off school payments be approved by your committee. Titles II and III of the Celler bill spell out in detail the kinds of provisions required.

Obviously, Federal action must be taken when a community fails to act. H.R. 3148 would require the Secretary of HEW to assume the responsibility for promulgating desegregation plans when other methods fail. It authorizes the Attorney General to file compliance actions upon certification from the Secretary that such is required. No civil rights bill can be meaningful unless it includes such provisions which pinpoint the Federal responsibility and we strongly support such requirements.

Action must be taken to assure Federal protection for those seeking to carry out the interest of the law. We fully support the Celler bill provisions authorizing the Attorney General to extend protection to local officials seeking to comply with desegregation orders.

We are also in full agreement with this measure in its requirement that the Attorney General be permitted to intervene in equal protection cases brought by others. We strongly urge authorizing the use of injunctions against those using force or threats of force to interfere with court orders in school desegregation cases. With injunctive powers, desegregation can be enforced against would-be violators who would be in contempt should they continue to interfere. This is a far better and more enforceable provision than the proposals of the administration to make such interference a criminal offense, since this latter procedure would involve long-drawn-out litigation.

We urge inclusion of provisions making it a Federal crime to possess or transport in interstate commerce or travel explosives intended for use in the bombing of schools, religious institutions, homes or other property in an attempt to deny civil rights. Only an effective provision of this kind can deter the "Confederate Underground" and other similar organizations which are becoming increasingly brazen in their violent attempts to intimidate law-abiding citizens.

We also urge inclusion of provisions requiring election officials to preserve Federal election records for at least 3 years as asked by the Department of Justice. In seeking to insure the right to vote, such records can be invaluable. Such records, by law, must be made available for examination to the Department of Justice and the courts.

The present Civil Rights Commission has just suffered a setback in the Federal district court in Alabama. This Commission has lacked adequate power even for investigation. A Federal civil rights commission truly armed with the power to investigate and required by law to turn over violations to the Attorney General could become a tower of strength in the fight for equality before the law and within the land.

We are opposed to all attempts to establish toothless commissions as a substitute for specific statute. We support creation of a properly armed permanent Commission to replace the present body established 2 years ago and which has accomplished little or nothing.

The President's Committee on Government Contracts can become a tower of strength in the fight for equal treatment on the job. Certainly, all citizens are entitled to equal opportunity and treatment on work performed under contract to the Federal Government. The Committee on Government Contracts should be strengthened by granting to it the right to hold broad hearings on complaints. It should be armed with the power of subpoena to require witnesses to testify and with the power to direct any Government agency to terminate a contract or refrain from granting a contract where discrimination is practiced.

The time for a piecemeal approach to civil rights is long gone. Too much is at stake in America and the world for further temporizing. A strong civil rights bill is required now if further progress is to be made. Under the best of circumstances and with a strong bill, progress will be slow. A strong bill, however, will assure that progress will come.

Mr. RODINO. We will resume tomorrow morning at 10 o'clock.

(Thereupon, at 5:05 p.m., the subcommittee took a recess until tomorrow, Friday, March 13, 1959, at 10 a.m.)

CIVIL RIGHTS

FRIDAY, MARCH 13, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:05 a.m., in room 346, Old House Office Building, Hon. Peter W. Rodino presiding.

Present: Representatives Rodino (presiding), Rogers (Colorado), Holtzman, Donohue, Toll, and McCulloch.

Also present: William R. Foley, general counsel, and Richard C. Peet, associate counsel.

Mr. RODINO. The meeting will come to order.

Our first witness this morning will be Mr. Kenneth H. Tuggle, Chairman of the Interstate Commerce Commission.

Mr. TUGGLE. Good morning, sir.

Mr. RODINO. Good morning.

We are happy to have you here, Mr. Tuggle. I know you have a prepared statement. Do you intend to read the complete prepared statement?

Mr. TUGGLE. Well, I could do as you would like.

Mr. RODINO. Can you summarize it?

Mr. TUGGLE. I can skip portions of it.

Mr. RODINO. We can insert the statement in the record in the interest of time.

Mr. TUGGLE. All right, sir.

STATEMENT OF KENNETH H. TUGGLE, CHAIRMAN, INTERSTATE COMMERCE COMMISSION

Mr. TUGGLE. I am the present chairman of the Interstate Commerce Commission and have served in that capacity since January 1 of this year. I am appearing today on the Commission's behalf to testify on bills H.R. 351, H.R. 617, and H.R. 619, the three civil rights measures which were referred to the Commission by the committee and which are among a number of such bills under consideration at these hearings.

These three proposals deal, for the most part, with aspects of the civil rights problem which do not in any way relate to transportation or otherwise involve the duties and responsibilities of the Commission. My remarks, therefore, shall be confined, in general, to those provisions of the bills on which I feel more qualified to speak, namely, those pertaining to transportation and those which would affect the Commission in its role as an employer. Since H.R. 351 and H.R. 619 are

similar in their approach to these subjects, I shall undertake to discuss them together.

Both of these measures provide that all interstate travelers shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by common carriers engaged in interstate commerce, and of all the facilities furnished or connected therewith, subject to only such conditions and limitations as are applicable to all persons without discrimination or segregation based on race, color, religion, or national origin.

Anyone, whether acting in a private, public, or official capacity, who would deny, attempt to deny, incite, or otherwise participate in a denial or attempted denial of such a right or privilege would be guilty of a misdemeanor and would be subject to fine, imprisonment, or both. Violators would also be made subject to civil actions for damages, or for preventative, declaratory, or other relief. This particular provision appears to relate to acts of individuals acting in a private, public, or official capacity, other than as a carrier, or an officer, agent, or employee thereof, and would not therefore, pertain to matters which would come within the Commission's jurisdiction.

These proposals would also make it a misdemeanor for any common carrier engaged in interstate or foreign commerce, or any of its officers, agents, or employees to segregate or to attempt to segregate or otherwise discriminate against passengers using any of the public conveyances or facilities of such carrier because of race, color, religion or national origin. H.R. 619 would go a step further in this connection by making it a misdemeanor for any person operating any facility, furnished or connected with the transportation of interstate passengers, or any of his officers, employees, or agents, to so segregate or to attempt to so segregate or otherwise discriminate against such passengers for any such reason.

As defined in that bill, the term "facilitates" would include, but would not be limited to, waiting rooms, restrooms, restaurants, lunch counters, and similar facilities. The term would also include taxicabs and limousines operated to service passengers using the conveyances of interstate carriers.

Insofar as rail carriers are concerned, section 3(1) of the Interstate Commerce Act makes it unlawful—

for any common carrier * * * to make, give, or cause any undue or unreasonable preference or advantage to any particular person * * * or to subject any particular person * * * to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Other parts of the act contain similar provisions applicable to motor and water carriers and freight forwarders.

Within only a few months after the Commission was established in 1887, it was called upon to decide whether the provision just quoted prohibited the railroads in certain sections of the country from requiring Negro and white passengers to occupy separate coaches and other facilities as they were compelled to do by statute in a number of States. In fact, the first volume of the Commission's reported decisions contains two reports on this subject. They are *Council v. Western & A. R. Co.*, 1 I.C.C. 339, and *Heard v. Georgia R. Co.*, 1 I.C.C. 428.

In these and other early cases the Commission followed what came to be known as the separate-but-equal doctrine which was regarded

as sound in the light of conditions existing at that time. In *Heard v. Georgia R. Co.*, the Commission stated:

The disposition of a delicate and important question of this character, weighted with the embarrassments arising from antecedent legal and social conditions, should aim at a result most likely to conduce to peace and order, and to preserve the self-respect and dignity of citizenship of a common country. And, while the mandate of the statute must be our paramount guide, we may be assisted by the knowledge familiar to all of past and present circumstances relating to our diverse population, and such lights of reason and experience as surround the question in giving effect with the least amount of friction to the purposes of the law.

The Commission found in this case and in *Council v. Western A. R. Co.* that the accommodations furnished colored passengers were not equal to those provided white passengers.

In a somewhat later decision, *Plessy v. Ferguson*, 163 U.S. 537 (1896), with which I am sure you are all familiar, the Supreme Court held that a Louisiana statute requiring railroads carrying passengers in coaches in that State to provide equal, but separate, accommodations for the white and colored races in the form of separate or divided coaches was not in conflict with the provisions of either the Thirteenth or Fourteenth Amendments. The Court concluded in that case (pp. 550-551):

* * * we cannot say that a law which authorizes or even requires the separation of the two races in public conveyances is unreasonable, or more obnoxious to the Fourteenth Amendment than the acts of Congress requiring separate schools for colored children in the District of Columbia, the constitutionality of which does not seem to have been questioned, or the corresponding acts of State legislatures.

Earlier in the decision the Court had stated (p. 544):

* * * Laws permitting, and even requiring their separation in places when they are liable to be brought into contact do not necessarily imply the inferiority of either race to the other, and have been generally if not universally, recognized as within the competency of the State legislatures in the exercise of their police power. The most common instance of this is connected with the establishment of separate schools for white and colored children, which has been held to be a valid exercise of legislative power even by courts of States where the political rights of the colored race have been longest and most earnestly enforced.

Thereafter, for many years the Commission limited its inquiry in racial segregation cases to the question of whether equal accommodations and facilities were provided for members of the two races, adhering to the view that the Interstate Commerce Act neither required nor prohibited segregation of the races.

In 1954, as we all know, the Supreme Court in *Brown v. Board of Education*, 347 U.S. 343, rejected the separate-but-equal doctrine insofar as public schools are concerned. In so doing it quoted with approval the language of the Kansas District Court stating that:

Segregation of white and colored children in the public schools has a detrimental effect upon the colored children. This impact is greater when it has the sanction of the law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of a child to learn * * *.

The court went on to say in that case:

Whatever may have been the extent of psychological knowledge at the time of *Plessy v. Ferguson*, this finding is amply supported by modern authority. Any language in *Plessy v. Ferguson* contrary to this finding is rejected.

We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal.

This decision of the Supreme Court was followed by two decisions of the Commission on the question of racial segregation of passengers, one of which involved several railroads and the other a bus line. In *National Association for the Advancement of Colored People, et al. v. St. Louis-San Francisco Railway Company, et al.*, 297 I.C.C. 335 (Docket No. 31423), decided November 7, 1955, the Commission was asked to rule whether the provision of separate but equal transportation facilities violated section 3 of the Interstate Commerce Act or the Constitution.

In *Sarah Keys v. Carolina Coach Co.*, 64 M.C.C. 769 (Docket No. MC-C-1564), decided on the same date, the Commission was asked to rule whether the provisions of such facilities violated section 216(d) of part II of the act, which pertains to motor carriers. The Commission ruled in the affirmative in both of these cases. In holding in the *St. Louis-San Francisco Railway Co.* case that the provision of separate but equal transportation facilities violated section 3(1) of the act, the Commission stated that the Supreme Court's decision in *Brown v. Board of Education* had a direct bearing upon the issue presented because of the Court's affirmance of the finding of the District Court of Kansas in the same proceeding that "the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group."

The Commission further stated in this connection, and this is our position:

The disadvantage to the traveler who is assigned accommodations or facilities so designated as to imply his inherent inferiority solely because of his race must be regarded under present conditions as unreasonable. Also, he is entitled to be free of annoyances, some petty and some substantial, which almost inevitably accompany segregation even though the rail carriers, as most of the defendants have done here, sincerely try to provide both races with equal convenient and comfortable cars and waiting rooms.

In referring to its earlier decision in *Heard v. Georgia R. Co.*, the Commission stated:

Present circumstances relating to our diverse population are far different from those in 1887, * * * and "lights of reason and experience" are clearer.

It concluded by saying:

It is hardly open to question that much progress in improved race relations has been made since then and that more can be expected. * * * We are therefore now free to place greater emphasis on steps "to preserve self-respect and dignity of citizenship of a common country" which this Commission in 1887 balanced against "peace and order."

On the question of segregation of passengers in terminal dining facilities leased to a noncarrier, the Commission held that unless the operation of lunchrooms can be found to be that of a common carrier subject to part I of the act, such facility is not within the jurisdiction of the Commission.

In the *Carolina Coach Co.* case, the Commission pointed out that the provisions of section 216(d) of the act are substantially the same as those in section 3(1), except that one applies to rail carriers and the other to motor carriers. It concluded, therefore, that a decision similar to that in the rail case was warranted. Accordingly, it found that the practice of the defendant requiring that Negro interstate

passengers occupy space or seats in the rear of its buses subjected such passengers to unjust discrimination and undue and unreasonable prejudice and disadvantage in violation of section 216(d) of the act, and was therefore unlawful.

At this point I would like to submit for the record, or for the subcommittee's files, as the subcommittee may desire, copies of the Commission's decision in the 2 proceedings last mentioned, 1 relating to rail carriers and 1 to motor carriers.

Mr. RODINO. They will be admitted into the record.

(The documents referred to follow :)

INTERSTATE COMMERCE COMMISSION

No. MC-C-1564

SARAH KEYS v. CAROLINA COACH COMPANY

64 M.C.C. 769

Decided November 7, 1955

Upon complaint, defendant found to be engaged in certain practices subjecting Negro passengers to unjust discrimination and unreasonable prejudice and disadvantage, in violation of section 216(d) of the Interstate Commerce Act. Order entered requiring defendant to cease and desist from such practices.

Julius W. Robertson, Dovey J. Roundtree, and Frank D. Reeves for complainant.

Frank Roberson for defendant.

REPORT OF THE COMMISSION

BY THE COMMISSION :

Exceptions were filed by complainant to the order recommended by the examiner, and the defendant replied. The parties have been heard in oral argument. Our conclusions differ from those recommended.

By a complaint filed on September 1, 1953, Sarah Keys, of New York, N.Y., alleges that the Carolina Coach Company, a corporation, of Raleigh, N.C., a motor common carrier of passengers, has subjected her to unjust discrimination and undue and unreasonable prejudice and disadvantage, contrary to the provisions of the Interstate Commerce Act, in that on or about August 2, 1952, while a passenger on one of the defendant's buses, she was, a Roanoke Rapids, N.C., refused further passage and subjected by defendant's employees to false arrest and imprisonment solely because of her race and color. An order is sought requiring the defendant to cease and desist and refrain from the alleged acts of discrimination and prejudice. As filed, the complaint also included a request for monetary damages, but that portion of the complaint was dismissed by order entered February 24, 1954, because of our lack of power to award damages for violations of part II of the act.

The circumstances giving rise to the filing of the complaint are fairly clear. On August 1, 1952, complainant, a Negro, who was at that time a member of the Womens Army Corps stationed at Fort Dix, N.J., purchased a bus ticket from Safeway Trails, Inc., a motor common carrier of passengers, for transportation from Trenton, N.J., to Washington, N.C. A joint-line ticket was issued for transportation over the lines of three carriers, namely, Safeway Trails, Inc., from Trenton to Washington, D.C., Virginia Stage Lines, Inc., from Washington to Richmond, Va., and Carolina Coach Company, the defendant herein, from Richmond to Washington, N.C. All of the named carriers are members of the National Trailways Bus System. Complainant boarded the bus on August 1, at Trenton, and proceeded to Washington, D.C., where a change of vehicle was required. Upon leaving Washington, at approximately 7 p.m., she was occupy-

ing the fifth seat from the front of the bus, behind the driver, which position was about midway between the front and rear of the vehicle. The bus made scheduled stops at Richmond and certain other intermediate points, and arrived at Roanoke Rapids at approximately 12:20 a.m., on August 2, 1952. Complainant states that she occupied the same seat from Washington to Roanoke Rapids, but the driver of the bus states that upon arrival at the latter point he noticed complainant in the third seat from the front on the opposite side of the bus. For the purpose of this proceeding, it appears to be unimportant whether, upon arrival at Roanoke Rapids, complainant was occupying the fifth seat from the front, behind the driver, or the third seat from the front, on the opposite side of the vehicle, because the subsequent events would have been substantially the same in either event.

At Roanoke Rapids there was a change of drivers and the new driver boarded the bus for the purpose of collecting the tickets of passengers continuing on beyond that point. Upon noting that complainant was seated in the forward portion of the vehicle, the driver requested that she exchange seats with a white Marine who was seated in the rear of the vehicle, such request having been allegedly made in conformity with a company rule, hereinafter discussed, requiring that white persons be seated from the front and colored persons from the rear of the vehicle. Complainant refused to move, indicating that she preferred to remain where she was, whereupon the driver left the bus to confer with defendant's dispatcher at the terminal. Upon his return, the driver ordered all of the passengers of the bus, except complainant, to transfer to another bus, which was parked nearby, for the continuance of the journey. Although well aware that complainant had a ticket calling for transportation to Washington, N.C., and that the bus upon which she was seated was not scheduled to leave the terminal, the driver indicated that she should remain seated. Notwithstanding this, complainant followed the other passengers to the substituted bus, but was denied entry thereto at the door by the driver. There ensued an altercation which culminated in complainant's arrest and subsequent conviction on a charge of disorderly conduct. In the meantime, the driver departed from Roanoke Rapids with the substituted bus, without complainant.

The described change in buses at Roanoke Rapids was not due to any mechanical difficulty or other deficiency in the vehicle which might have rendered its continued use unsafe or otherwise impracticable. On the contrary, the record indicates that the determination to use another bus was occasioned entirely by complainant's refusal to change seats as requested by the driver, and that had she done so, she and the other passengers would have departed from Roanoke Rapids in the same vehicle in which she arrived at that point. The parties agree that the seat which the driver requested complainant to occupy was similar in all respects to the one which she was requested to vacate, except of course for the location in the vehicle.

As above indicated, the driver's action in requesting complainant to move to a different seat was allegedly taken pursuant to certain company rules which provide, insofar as particularly pertinent here:

(1) The company reserves full control and discretion as to the seating of passengers, reserves the right to change such seating at any time during a trip, and reserves the right to transfer passengers from one vehicle to another whenever necessary.

(2) White passengers will occupy space nearest the front of the bus, and colored passengers will occupy space nearest the rear of the bus.

The ticket sold to complainant contained a specific notation to the effect that the company reserves the right to seat all passengers, which notation is in accord with a tariff provision published by the National Motor Bus Traffic Association, in which all of the carriers participating in the through movement here concerned concur.

The basic question presented for our determination here is whether the admitted practice of defendant in segregating white and Negro interstate passengers in its buses violates the provisions of section 216(d) of the act, which make it unlawful for any common carrier by motor vehicle "to subject any particular person * * * to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever." Complainant urges that the fact of segregation, standing alone, amounts to unjust discrimination and unreasonable prejudice against her and members of her race, and that such dis-

crimination and prejudice work to the disadvantage of any Negro traveler. Defendant, on the other hand, relies upon the so-called separate-but-equal doctrine founded on *Plessy v. Ferguson*, 163 U.S. 537, which sanctions the separation of the races provided equal facilities are made available for white and Negro persons, and urges that the segregation of passengers in interstate buses, without any showing that the separate facilities offered are in any manner unequal, cannot be found to be a violation of the provisions of the act.

In a matter concurrently before us, No. 31423, *National Asso. for Advancement of Colored People v. St. L.-S.F. Ry. Co.*, — I.C.C. —, hereinafter called the *Railway case*, which involves issues substantially similar to those here presented, we have discussed at length the history of segregation in the field of public transportation, and have concluded that the separate-but-equal doctrine is no longer acceptable as a basis for determining proceedings in which complainants invoke our authority to prevent violations of section 3(1) of the act, which forbids rail carriers "to subject any particular person * * * to any undue or unreasonable prejudice or disadvantage in any respect whatsoever." The provisions of section 216(d) of the act, which are invoked by complainant herein, are substantially the same as those in section 3(1), except that the former applies to motor carriers and the latter to rail carriers, and a similar conclusion is warranted here. For the reasons stated in the *Railway case*, we conclude that the assignment of seats in interstate buses, so designated as to imply the inherent inferiority of a traveler solely because of race or color, must be regarded as subjecting the traveler to unjust discrimination, and undue and unreasonable prejudice and disadvantage. In addition to the discrimination, prejudice, and disadvantage resulting from the mere fact of segregation, additional disadvantage to the passenger is always potentially present because the traveler is entitled to be free from the annoyances which inevitably accompany segregation and the variety and unevenness of methods of its enforcement. See the recent court cases cited in the *Railway case*.

We find that the practice of defendant requiring that Negro interstate passengers occupy space or seats in specified portions of its buses, subjects such passengers to unjust discrimination, and undue and unreasonable prejudice and disadvantage, in violation of section 216(d) of the act, and is therefore unlawful.

An order will be entered prohibiting the continuance of such practice.

JOHNSON, *Commissioner*, dissenting:

It is my opinion that the Commission should not undertake to anticipate the Court and itself become a pioneer in the sociological field.

COMMISSIONER MITCHELL did not participate in the disposition of this proceeding.

COMMISSIONER HUTCHINSON, being necessarily absent, did not participate in the disposition of this proceeding.

ORDER

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D.C., on the 7th day of November, A.D. 1955.

No. MC-C-1564

SARAH KEYS v. CAROLINA COACH COMPANY

This proceeding being at issue upon complaint and answer on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been made, and the Commission, on the date hereof, having made and filed a report herein containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is ordered, That defendant Carolina Coach Company be, and it is hereby, notified and required on or before January 10, 1956, to cease and desist, and thereafter to refrain and abstain, from practices found in said report to result in unjust discrimination and in undue and unreasonable prejudice and disadvantage, and to be unlawful.

It is further ordered, That this order shall continue in force until the further order of the Commission.

By the Commission.

[SEAL]

HAROLD D. MCCOY,
Secretary.

INTERSTATE COMMERCE COMMISSION

No. 31423

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE ET AL. v. ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY ET AL.,
297 I.C.C. 335

Decided November 7, 1957

1. Upon complaint assailing practices of defendants in maintaining and requiring the use of separate accommodations in railway coaches, trains, and station waiting rooms by Negro passengers insofar as they pertain to interstate travel over the defendants' lines, found to subject such persons to undue and unreasonable prejudice and disadvantage, in violation of section 3(1) of the Interstate Commerce Act. Undue and unreasonable disadvantages resulting therefrom ordered removed.
2. Operation under lease of separate public lunchrooms for white persons in railway station facilities at Richmond, Va., by a lessee noncarrier concern, found not within the purview of the act and therefore not subject to the jurisdiction of this Commission.

Robert L. Carter and Thurgood Marshall for complainants and interveners.

John W. Foster, Charles Cook Howell, Wirt P. Marks, Jr., Charles P. Reynolds, Sidney S. Alderman, A. J. Baumann, Jos. R. Brown, Wm. E. Davis, Arthur J. Dixon, Roland J. Lehman, Prime F. Osborn III, Starr Thomas, Charles F. Turner, John W. Weldon, Tom L. Farmer, J. T. Suggs, Robert Thompson, Wm. G. Duncan, W. C. Dowdy, Jr., Wm. R. McDowell, James B. McDonough, Jr., Charles T. Abeles, and Walter G. Treanor for defendants.

Herbert Brownell, Jr., Stanley N. Barnes, Charles H. Western, and Lawrence Gochberg for the United States of America, amicus curiae.

REPORT OF THE COMMISSION

BY THE COMMISSION:

The complainants and the defendants, except the Missouri Pacific Railroad Company (Guy A. Thompson, trustee), filed exceptions to the examiner's proposed report and replied to each others' exceptions. We have heard oral argument. Exceptions and requested findings not specifically discussed in this report nor reflected in our findings or conclusions have been considered and found not justified.

This complaint presents the issue of the lawfulness, under the Interstate Commerce Act, of racial segregation of interstate railroad passengers. The principal complainant is the National Association for the Advancement of Colored People, a membership corporation organized under the laws of New York. Its object is sufficiently explained by its name. Joined with it as complainants are 17 individuals named in the footnote.¹ Three other persons, A. L. James, John L. LeFlore, and T. E. McKinney, Jr., intervened in support of the complainants but otherwise took no part in the proceeding.

The defendants are the St. Louis-San Francisco Railway Company, the Louisville and Nashville Railroad Company, the Atlantic Coast Line Railroad Company, the Seaboard Air Line Railroad Company, the Southern Railway Company, the Illinois Central Railroad Company, the Gulf, Mobile & Ohio Railroad Company, The Kansas City Southern Railway Company, the Missouri Pacific Railroad Company (Guy A. Thompson, trustee), The Texas and Pacific Railway Company, The Atchison, Topeka and Santa Fe Railway Company, the Gulf, Colorado and Santa Fe Railway Company, the Panhandle and Santa Fe Railway Company, the

¹ Ruby Hurley, Hattie Ballard, Wendell Ferguson, Clarence Morgan, Charlie May Hayes, A. S. Crishon, Gelene Payte, Russell L. Anderson, Jr., Ethel I. Berry, Elvira Craig, Warren Stetzel, George Johnson, Eugene Gordon, Elliott J. Beal, Dorothy M. Scott Green, James Green, and James G. Baptiste. All of these persons are Negroes, except Stetzel, who is white.

Richmond Terminal Railway Company,² and the Union News Company. The complaint was dismissed as to the last-named defendant by our order because this company is not subject to the Interstate Commerce Act.

A brief was filed on behalf of the United States of America as *amicus curiae* in support of the complaint.

The complaint narrates the instances of segregation experienced by the individual complainants as passengers over the lines of the various defendants, which are cited as "examples of the discriminatory practices herein complained of."³ Principally significant is the following general allegation:

and defendants subject complainants and other Negroes similarly situated to an undue and unreasonable prejudice, disadvantage and discrimination, solely because of race and color, by denying to complainants and other Negroes similarly situated the same accommodations, privileges, facilities, services, comforts and conveniences afforded white passengers holding tickets for the same class of transportation and accommodations—all in violation of section 3, paragraph 1, of the Interstate Commerce Act. That by said action defendants do make, give, cause and render an undue and unreasonable preference and advantage to all white persons and do subject to an undue and unreasonable prejudice, disadvantage and discrimination complainants and other Negroes who use or in the future will use the railroad, terminal and restaurant facilities and services of defendants.

The prayer of the complaint is that we require the defendants to cease and desist from such alleged violations.

At a prehearing conference, the complainants' counsel stated that the sole issue was the lawfulness of racial segregation per se, and disclaimed any intention of raising any question as to whether or not the accommodations furnished by the defendants to white and colored passengers are equal. Subsequently, all of the defendant line-haul railroads, except the Illinois Central, Seaboard Air Line, Texas & Pacific, and Missouri Pacific, entered into stipulations of fact, with the complainants, which constitute the sole record as to the stipulating defendants. There was also a stipulation between the complainants and the Richmond Terminal, supplemented by other evidence.

The following quotation from the stipulation relating to the Gulf, Mobile & Ohio is generally illustrative of the others:

1. GM&O designates, assigns and sets aside specific coaches or portions of coaches in the trains it operates between St. Louis, Mo., and Mobile, Ala., for the exclusive occupancy of Negro passengers and similarly designates, assigns and sets aside specific coaches or portions of coaches in said trains for the exclusive occupancy of passengers other than Negro passengers.

2. GM&O makes no distinction on said trains between Negro interstate and intrastate passengers in assigning Negroes to coaches or portions of coaches reserved for their use and occupancy, and in like manner, GM&O makes no distinction on said trains in assignment to coaches or portions of coaches between interstate and intrastate passengers of any race or color.

3. In their design, construction, equipment, appointments, facilities and other physical characteristics, and in their maintenance and upkeep, the coaches or portions of coaches so designated, assigned and set aside for occupancy of Negro passengers are substantially equal to those designated, assigned and set aside for occupancy by passengers not of the Negro race.

4. The separation of the races in the coaches of trains owned and operated by GM&O, as herein described, and the use, occupancy and enjoyment of their facilities and accommodations which in all respects are substantially the same when used, occupied and enjoyed by passengers of any race, and which separation is based solely on differences in race or color, is effected pursuant to a rule, regulation or practice adopted by GM&O.

² Referred to, respectively, as the Frisco, Louisville & Nashville, Atlantic Coast Line, Seaboard, Southern, Illinois Central, Gulf, Mobile & Ohio, Kansas City Southern, Missouri Pacific, Texas & Pacific, Santa Fe, and Richmond Terminal.

³ The incidents specifically alleged with respect to the Texas & Pacific and the Kansas City Southern involved intrastate journeys. The complaint as a whole may properly be interpreted as sufficiently assailing the practices of all the defendants as in violation of section 3(1) of the Interstate Commerce Act. The stipulation of the Kansas City Southern states:

"On said trains in Louisiana, Kansas City Southern makes no distinction between Negro interstate and intrastate passengers in assigning Negroes to coaches or portions of coaches reserved for their use and occupancy, and in like manner, Kansas City Southern makes no distinction on said trains in assignment to coaches or portions of coaches between interstate and intrastate passengers of any race or color."

5. GM&O's rule, regulation or practice of designating, assigning and setting aside separate coach space for the exclusive occupancy of Negroes, and separate space for the exclusive occupancy of passengers other than Negroes, has existed continuously for more than 50 years last past, and pursuant to the public opinion, customs, and usages of the people of certain States through which its said described trains run.

6. The rates charged by GM&O to Negro passengers are the same as those charged to and paid by white passengers for the same classes of service and over the same distances of travel.

Three of the stipulations referred generally or specifically to State statutes which require segregation of passengers. In the stipulation of the Frisco it is stated:

however, Negro interstate passengers are not required to transfer to coaches or portions of coaches reserved for Negroes.

Similarly, the stipulation of the Santa Fe and its two subsidiaries named as defendants contains the following:

Employees of the Santa Fe are instructed that all Negro coach passengers boarding trains in Texas and Oklahoma are to be directed to the coaches or portions of coaches provided for exclusive occupancy by Negroes.

Employees of the Santa Fe are instructed that when trains enter Texas or Oklahoma and specific coaches or portions of coaches are provided on such trains for exclusive occupancy by Negro passengers, they are to advise all Negro coach passengers that such separate space is provided pursuant to the customs and laws of the State but are not to insist that they move to the coaches or portions of coaches provided for persons of their race.

Each of the nonstipulating defendants filed an answer principally containing assertions that it "is without sufficient knowledge either to admit or deny the allegations" of the complaint. The answers of the Missouri Pacific and the Texas & Pacific in identical terms deny that the carrier "enforces any policy, practice, rule or regulation of subjecting Negro passengers in interstate commerce to discrimination and segregation in the use, occupancy, and enjoyment of the facilities and accommodations available for use of the traveling public at terminals and stations and on railroad lines," and further deny that any of its "policies, practices, rules or regulations constitute a violation of defendant's duties under the Interstate Commerce Act." The answers of the Seaboard and the Illinois Central contain substantially the same statement, and the Illinois Central also denies that "it has any coach or coaches on said train or any other train which are reserved exclusively for Negro passengers."

The evidence pertaining to the practices of the nonstipulating defendants will now be discussed. This in part included testimony by Dr. Herman H. Long, an official of the Board of Home Missions of the Congregational Christian Churches, who referred to a survey of the practices of a number of railroads intended to disclose whether or not they resulted in racial segregation. This testimony was objected to as hearsay because the witness had not himself participated in the investigations by observers who studied at firsthand the conditions on the railroads. While the evidence was received over objection, it has been wholly disregarded in the conclusions hereinafter reached.

Missouri Pacific.—In January 1953, complainant Mrs. Charlie Mae Hayes of Hot Springs, Ark., a housewife and school teacher, made a railroad journey from Hot Springs to Nashville, Tenn., and return, traveling on the Missouri Pacific between Hot Springs and Memphis, Tenn. The train had two passenger coaches, the one nearer the locomotive being divided on the inside by a partition. The complainant testified that, on the trip from Hot Springs to Memphis, all of the Negro passengers were in the forward section of the first coach, and that the same was true on her westbound trip from Memphis to Hot Springs 2 weeks later.

This complainant and her husband, a minister, who escorted her to a seat on the train when she left Hot Springs, testified as to a conversation with J. N. Wilson, the train conductor, relating to the latter's assignment of accommodations to the complainant. Wilson was the sole witness for the Missouri Pacific. It is unnecessary to state the substance of this conversation. The Missouri Pacific filed no exceptions to the statement of the examiner "that the policy and practice of this carrier with respect to segregation of passengers are not essentially different from those of the defendants which entered into stipulations." We accept that statement as the basis for our decision with respect to the Missouri Pacific.

Seaboard.—Two witnesses, Mrs. Hattie Ballard, a complainant, and Dr. Long, before mentioned, testified concerning the practices of this defendant from actual experience as passengers.

On December 24, 1952, Mrs. Ballard, who lives in New York, N.Y., traveled from that point to Greenwood, S.C., as a coach passenger on the Silver Comet, a reserved-seat coach train operated by the Pennsylvania Railroad Company, the Richmond, Fredericksburg & Potomac Railroad Company, and the Seaboard. On December 27, 1952, she returned on the same train. At the passenger ticket office of the last-named carrier in New York City, she bought a round-trip ticket, together with seat reservations, both to and from Greenwood on a car designated 25-B. The southbound trip was without incident. Mrs. Ballard rode all the way in car 25-B, which presumably was occupied in part by white passengers. She testified as follows, referring to the northbound trip:

I boarded the Silver Comet at Greenwood, S.C., and I asked for 25-B. * * * the first conductor told me straight ahead. I started walking towards the back of the train and I met a conductor and asked for 25-B again and he asked me to show him my reservations. I showed them to him and he said "There is no 25-B." So I said to him, "You mean they sold me something they don't have?" and he said "Where did you get your reservations?" I told him "I bought them in New York," so he said to me "Well, they have that coming down but we don't have it going back," so I stood up until we got to the next little town and then he gave me a reservation in 21-B, an all-Negro car, a half car.

Mrs. Ballard further stated that shortly after boarding the train she inquired of a Negro porter as to the location of 25-B and he replied: "You are seated in back. I can't take you back there, but go back and you will find it." As the car to which Mrs. Ballard was assigned was removed from the train at Washington, D.C., she was compelled to transfer to another car in the same train in order to continue her journey to New York. Upon arrival there she took occasion to observe that one of the cars in that train was marked 25-B. Official notice is taken of information from the Official Guide of the railways for December 1952, set forth in the footnote.⁴

It is unlikely that Mrs. Ballard's inability to obtain the seat which had been reserved for her was due to some inadvertent error. In the absence of any explanation of the incident, the conclusion is warranted that where the Seaboard is in a position to control the assignment of passengers to seats on its trains jointly operated with other lines, it follows the practice of racial segregation.

This conclusion is supported also by the testimony of Dr. Long, who boarded the Silver Comet at Raleigh, N.C., on June 24, 1951, as a passenger to Atlanta, Ga. He testified:

as the train came up I walked toward the rear of the train. I didn't have a seat reservation and was told I would get one and then I walked toward the back of the train. I was stopped by the trainman—I don't know whether he was a conductor or brakeman, but at least I was stopped and directed to take the front car of the train * * * so I rode into Atlanta on the segregated car, on which all the persons present were Negroes.

It thus appears that the Seaboard designates, assigns, and sets aside specific coaches or portions of coaches in the trains which it operates for the exclusive occupancy of Negro passengers.

Texas & Pacific.—The only testimony with respect to the practices of this defendant related to an intrastate journey. Defendant objected to this evidence. The lawfulness of practices relating to intrastate commerce is not in issue here. Statutes prescribing segregation are in effect in Louisiana and Texas, through which this defendant operates, and the prevailing practice of some railroads whose lines are in States having segregation statutes is to make no distinction between interstate and intrastate passengers. Nevertheless, we may not disregard the fact that the record before us is devoid of any evidence relating to the practices of this defendant with respect to interstate passengers. Accordingly, as to this defendant the complaint is dismissed.

NOTE.—P&B Dormitory Car (14 Reclining Seats) 21-B Birmingham to Washington. Reclining Seat Coach (52 Seats) 25-B Birmingham to New York. (Dec. 13 to Jan. 2 inclusive only.)

⁴ Silver Comet—No. 34 (Coach Seats Reserved).

Illinois Central.—In July 1953, the complainant Beal traveled from Jackson, Miss., to New Orleans on an Illinois Central coach train, the "City of New Orleans," which operates between Chicago, Ill., and New Orleans. At the Jackson station he was directed to "go down the platform a bit and I would see a sign down there." The sign was attached to a movable pedestal and read "Colored passengers board here." The complainant boarded the train and was directed to the second coach behind the two baggage coaches. This passenger coach was occupied exclusively by Negro passengers.

The foregoing is a summary of the only evidence relating to the Illinois Central offered by the complainant, except for the before-mentioned survey. This defendant presented a considerable amount of evidence bearing on its practices in assigning seats to passengers on its trains.

So far as the record shows, Jackson is the only station on the Illinois Central at which a sign such as that above-described is used. The use of the sign is restricted to the "City of New Orleans," which carries a heavy volume of traffic. According to the defendant's general manager, "its purpose is to inform Negro passengers of the position of cars on the train where they will find accommodations and where our experience has shown other Negro passengers are most likely to be." Also, as another witness stated, "the sign also performs the function of complying with the segregation statutes of Mississippi with respect to intrastate passengers."

At Chicago and New Orleans, passengers are assigned to cars on the "City of New Orleans" by a process which one of its officials described as follows:

At Chicago we have had cards printed bearing numbers which correspond with the numbers of the coaches. As our patrons pass through the gate, they are handed cards directing them to specific cars for loading. Again we attempt to follow what we have found to be the passengers' preference by assigning Negro passengers to the front cars first and Caucasian passengers to the rear coaches first. When the number of seats for the first and last cars are depleted, cards are then passed out for the next cars in toward the middle of the train. This procedure is followed until all of the passengers have been loaded. These cards do not, however, attempt to assign passengers to any particular seats and they are free to use any and all facilities of the train.

The Illinois Central employees supervise the loading of passengers on the "City of New Orleans," on which seats are not reserved, in order to avoid delay and confusion which might occur if the passengers were permitted to select their seats initially as they saw fit, as well as for other reasons. Long-haul passengers are directed to coach with appurtenances deemed more comfortable for long journeys. Short-haul passengers are assigned to coaches near the center of the train so that they may be assured of a station platform on which to alight. Another consideration is stated as follows:

Fifth, we attempt to follow the desires of the greatest number of our passengers. * * * like groups desire to be together * * * clubs or fraternal organizations * * * church groups, civic organizations, groups of school children * * * military groups etc. We have also found that racial groups tend to sit together. For that reason we have followed the practice of loading interstate or long-haul Negro passengers together and interstate or long-haul Caucasian passengers together.

It is obvious that the purpose described in the foregoing quotation is the chief, if not the only, reason for using the card system. So far as the record shows, it does not accomplish any classification of passengers into long-haul groups but clearly is used for the purpose of assigning passengers to different cars according to race.

The witnesses for the Illinois Central testified that written and oral instructions to train-service personnel recognize the right of passengers to move freely throughout the train and change their seats after they get on the train, specifying "that no attempt should be made to disturb or restrain them in going from one car to another in the train and that all passengers regardless of race, are to have free and equal use of all available facilities."

Because of the geographical location of the Illinois Central's lines, racial segregation presents a more difficult practical problem for this defendant than for the others. Its "City of New Orleans," for example, traverses a distance of 921 miles between Chicago and New Orleans, more than 60 percent of which is in the States of Kentucky, Tennessee, Mississippi, and Louisiana, all of which have statutes requiring segregation. The remainder is in Illinois, where there is no such law.

From this testimony it appears that the Illinois Central has not been entirely successful in impressing upon its employees that passengers are free to move throughout the train and to intermingle and change their seats after they get on the train, as its officials have stated. The evidence as a whole indicates that the Illinois Central designates and assigns specific coaches for the occupancy of Negro passengers, and that the tendency of its policy as its principal witness conceded, is to maintain a certain separation of the races, although it has instructed its conductors that segregation of interstate passengers is not permitted with a further admonition that they are not "to move such a passenger or take any action that might make us liable for damages."

Richmond Terminal.—This defendant is a corporation controlled jointly by the Richmond, Fredericksburg & Potomac and the Atlantic Coast Line. It operates a passenger terminal in Richmond, Va., known as the Broad Street Station, and is a carrier subject to our jurisdiction.

Certain space in the station is leased by the terminal to the Union News Company, which operates two public lunchrooms therein, one for white patrons and the other for colored. The complainants contend that there is a violation of section 3(1) of the act because colored patrons are not served in the lunchroom reserved for exclusive use of white customers.

The complainants now urge the joinder of the Union News Company with the other defendants was permissible under section 2 of the Elkins Act, but this contention comes too late since they filed no reply to the petition of the Union News Company for dismissal of the complaint as to it. There remains the question whether the terminal is in violation of section 3(1) because of the maintenance of segregated lunchrooms.

There is no dispute as to the facts, most of which are stipulated. The Union News Company operated lunchrooms in the Broad Street Station from about 1918, when the station was completed, until 1933. No lunchrooms were in operation on the station premises from the latter year until 1952. The present lease to that company dates from June 1, 1952, and is for a term of 10 years, subject to earlier termination at the option of either party on 90 days' notice.

The lease is silent as to racial segregation. The terminal has certain powers of supervision for a purpose which may be described as policing. The lessee is obligated to "comply with the requirements of the Department of Public Health, City of Richmond, and with all other lawful governmental rules and regulations." The context, however, indicates that this requirement is for the purpose of keeping the premises in a neat, clean, and orderly condition, and does not render the lessee liable for violations of the Interstate Commerce Act.

In our decisions dealing with redcap service performed at railway terminals in large cities for which a definite charge is imposed, we have distinguished that service from the lunchcounter service, bootblack stand, newspaper and periodicals sales service, checkroom and parcel-lockers services, and taxicab concessions, offered by carriers as matters of convenience and comfort to all persons who care to become patrons of the carriers for the purpose. See *Dayton Union Ry. Co. Tariff for Redcap Service*, 256 I.C.C. 289, 299. Here, the lunchroom concession does not constitute an integral part of the passenger service performed by the defendants.

The complainants refer to certain of our decisions under section 19a of the act, in which parts of railroad terminals leased to private parties for hotel or restaurant operation were found to be subject to valuation as carrier property. The principle of those decisions was stated in *Atchison, Topeka & S. F. Ry. Co.*, 135 I.C.C. 633, 634, as follows:

In our original decision we recognized that railroad-owned hotel and restaurant facilities reasonably necessary for the convenience of passengers and employees should be accorded a common-carrier classification even though there was an incidental resort to them by members of the general public. * * * If they are kept for the accommodation of the general public, rather than as an incident to the operation and management of the railroad, they must be treated otherwise.

The fact that the lunchroom facilities in the Broad Street Station were not in use from 1933 to 1952 indicates that they have not been considered essential to the performance of the terminal's common-carrier functions. Unless the operation of the lunchrooms can be found to be that of a common carrier subject to part I of the act, it cannot be regulated under section 3(1), and we are unable so to find on the facts before us.

The situation is of course different as to the passenger waiting rooms in the station, of which, according to the stipulation between the complainants and

the terminal, there are four, suitably equipped and used for that purpose, described as follows:

(a) An area in which the train gates are located which contains benches and seats which are freely used by both Negro and white persons.

(b) A large waiting room into which the main entrance leads which contains ticket office windows on one side and a newsstand on the other and which is freely used by both races.

(c) Leading from said waiting room and accessible therefrom are two smaller waiting rooms, one for men and one for women, each containing lavatory facilities and each marked "White." These waiting rooms are used primarily by white persons.

(d) A waiting room marked "Colored" which contains separate lavatory facilities for both men and women and ticket office windows. This waiting room is used primarily by Negroes who desire to use it but is accessible to and usable by both Negro and white persons.

The stipulation also includes the following paragraph:

4. The designation of certain of the aforesaid waiting rooms as "White" and "Colored" has existed since said Broad Street Station was first put into operation and use in 1922, although as hereinabove stated no separation or segregation of the races is required or enforced.

A railroad special agent charged with overseeing the conduct of persons who use the station testified that colored persons are free to enter the waiting rooms marked "White" and white persons are similarly free to enter those marked "Colored," and that they do so with some frequency. In its brief the terminal suggests that the purpose of the signs is merely to give people an opportunity to associate with members of their own race.

Signs such as "white" and "colored", as displayed in the Broad Street Station, are commonly understood to represent rules established by managers of buildings in which they are posted in the expectation that they will be observed by persons having due regard for the proprieties. It is reasonable to believe that such was the original purpose of these signs, and that this is still true, despite the terminal's acquiescence in disregard of the signs.

Conclusions.—Racial segregation of passengers by common carriers—steamboats, railroads, and more recently motorbuses—has been a perennial source of litigation before courts and regulatory commissions for nearly a century. The question came before this Commission about 2 months after it was organized in 1887, and our first volume of decisions contains two reports on this subject. *Council v. Western & A. R. Co.*, 1 I.C.C. 339, and *Heard v. Georgia R. Co.*, 1 I.C.C. 428.

Those reports followed what has come to be known as the separate-but-equal principle, which had evolved from earlier decisions of State courts and was regarded as sound in the light of contemporary conditions, some of which were referred to in the *Council* decision, as follows:

The people of the United States by the votes of their representatives in Congress support the public schools of the country's capital city, and here white and colored children are educated in separate schools. Congress votes public moneys to separate charities; men, black and white, pitch their tents at the base of Washington's Monument to compete in the arts of war in separate organizations. Trade unions, assemblies, and industrial associations maintain and march in separate organizations of white and colored persons.

In later litigation involving the separate-but-equal principle, difficult questions of fact were presented. Ultimately, as a result of the Supreme Court's decisions in *Mitchell v. United States*, 313 U.S. 80, and *Henderson v. United States*, 339 U.S. 816, segregation was discontinued in railroad dining and sleeping cars. In the decision last referred to, the Court intimated that dining-car segregation could have been found unlawful on grounds other than those principally relied on, saying (p. 825):

We need not multiply instances in which these rules sanction unreasonable discriminations. The curtains, partitions, and signs emphasize the artificiality of a difference in treatment which serves only to call attention to a racial classification of passengers holding identical tickets and using the same public dining facility.

Accordingly, some of the defendants in their stipulations have pointed out that they do not insist that their interstate passengers comply with State segregation statutes, and others have undertaken to show that once a Negro interstate passen-

ger boards one of their trains and proceeds to the car assigned to him he is later free to move to another car. Apparently the prevailing method of enforcement is to leave the matter to the judgment of conductors, subject only to very general instructions or none at all. The least repressive method is that of the terminal, which merely maintains separate facilities designated by signs and permits patrons to be guided by discretion and conscience.

The variety and unevenness of enforcement methods undoubtedly are confusing to the passengers who are affected, and a feeling of uncertainty has also been stimulated by the decision of the Supreme Court in *Morgan v. Virginia*, 328 U.S. 373, and certain other decisions of the Federal courts unfavorable to the principle of segregation.⁵ From the evidence in this case it is apparent that some Negroes quite understandably have been unaware of the comparatively limited scope of those decisions, and upon encountering segregation as railroad passengers, have felt that their civic rights were infringed. This misunderstanding adds to their traditional resentment of passenger segregation and tends to produce friction, as shown by the evidence here.

The briefs in the instant case have much to say about *Brown v. Board of Education*, 347 U.S. 483, and *Bolling v. Sharpe*, 347 U.S. 497. The first-named decision has a direct bearing on the issue here because of the Supreme Court's affirmation of the finding of the District Court of Kansas in the same proceeding that "the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group." The Supreme Court expressly rejected the contrary view stated many years before in *Plessy v. Ferguson*, 163 U.S. 537, 551, long regarded as the foundation of the separate-but-equal principle. The defendants argue that that case, repudiated with respect to public education, still has controlling force in the field of transportation, but this argument is undermined by the following statement in *Bolling v. Sharpe*, *supra* (p. 499): "

Classifications based solely upon race must be scrutinized with particular care, since they are contrary to our traditions and hence constitutionally suspect.

It is unnecessary to consider constitutional aspects of the question, which are discussed in the briefs. The complainants invoke our authority to prevent violations of section 3(1), which makes it unlawful for a rail carrier "to subject any particular persons * * * to any undue or unreasonable prejudice or disadvantage in any respect whatsoever." The disadvantage to a traveler who is assigned accommodations or facilities so designated as to imply his inherent inferiority solely because of his race must be regarded under present conditions as unreasonable. Also, he is entitled to be free of annoyances, some petty and some substantial, which almost inevitably accompany segregation even though the rail carriers, as most of the defendants have done here, sincerely try to provide both races with equally convenient and comfortable cars and waiting rooms.

The defendants content that our functions are too narrow to permit a decision in this case influenced by considerations of public policy. Former decisions applying the separate-but-equal principle which the defendants cite as controlling, however, strongly reflected views of public policy then prevailing. This is shown by the following passage in *Heard v. Georgia R. Co.*, *supra*, quoted approvingly by the defendants:

The disposition of a delicate and important question of this character, weighted with embarrassments arising from antecedent legal and social conditions, should aim at a result most likely to conduce to peace and order, and to preserve the self-respect and dignity of citizenship of a common country. And, while the mandate of the statute must be our paramount guide, we may be assisted by the knowledge familiar to all of past and present circumstances relating to our diverse population, and such lights of reason and experience as surround the question, in giving effect with the least amount of friction to the purposes of the law.

"Present circumstances relating to our diverse population" are far different from those in 1887, when the above paragraph was written, and "lights of reason and experience" are clearer. It is hardly open to question that much progress

⁵ *Chance v. Lambeth*, 186 F. (2d) 879; 341 U.S. 941.

⁶ This statement was emphasized by the United States Court of Appeals, fourth judicial circuit, in a recent decision applying the principle of the school cases to segregation in public recreational facilities. *Dawson v. Mayor and City Council of Baltimore City*, 220 F. (2d) 386. See also *Flemming v. Southern Carolina Electric & Gas Co.*, 224 F. (2d) 752, decided by the same court on July 14, 1955.

in improved race relations has been made since then and that more can be expected. If there were at present any serious reason for concern over "peace and order", the Attorney General would hardly have asserted in his brief before us:

Segregation in public transportation, that is, by common carriers under duty both at common law and by Federal statute to serve all persons without discrimination, "is not reasonably related to any proper governmental objective."

We are therefore now free to place greater emphasis on steps "to preserve the self respect and dignity of citizenship of a common country" which this Commission in 1887 balanced against "peace and order."

We find that the practices of the defendants, except the Texas & Pacific, in assigning or directing Negro interstate passengers to coaches or portions of coaches designated or provided for the exclusive use of such passengers, and in maintaining waiting rooms in their stations designated for the exclusive use of such passengers, subject Negro passengers to undue and unreasonable prejudice and disadvantage, in violation of section 3(1) of the act.

We further find that the operation by a lessee (noncarrier) of separate lunch-room facilities for white and colored persons in the railway station at Richmond, constitutes a function or service which is not within the jurisdiction of this Commission.

An order prohibiting the continuance of the unlawful practices found to exist will be entered.

JOHNSON, *Commissioner*, dissenting:

It is my opinion that the Commission should not undertake to anticipate the Court and itself become a pioneer in the sociological field.

COMMISSIONER HUTCHINSON, being necessarily absent, did not participate in the disposition of this proceeding.

ORDER

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D.C., on the 7th day of November, A.D. 1955.

No. 31423

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE ET AL.

v.

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY ET AL.

This proceeding being at issue upon complaint and answers on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been made, and the Commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is ordered, That the defendants except the Texas and Pacific Railway Company, named in the complaint, as amended, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before January 10, 1956 and thereafter to abstain from practicing the undue and unreasonable prejudice and disadvantage found to exist in said report.

And it is further ordered, That this order shall continue in force until the further order of the Commission.

By the Commission.

[SEAL]

/s/ HAROLD D. MCCOY,
Secretary.

Mr. TUGGLE. It appears that to the extent that relief is provided against racial discrimination in interstate transportation subject to the Commission's jurisdiction, H.R. 351 and H.R. 619 would accomplish through legislation the same result reached by the Commission by reason of its decisions in the *St. Louis-San Francisco Railway Co.* case and the *Carolina Coach Co.* case. The penalties provided, however are different. H.R. 351 and H.R. 619 prescribe fines of not exceeding \$1,000 for each offense, whereas under section 16(8) of the

Interstate Commerce Act, the failure or neglect to obey any order under section 3 is punishable by forfeiture to the Government of the sum of \$5,000. Under section 16(12), however, the Commission may compel obedience to its orders, without monetary forfeiture, through the use of an injunction to restrain disobedience (other than for the payment of money).

Injunctive measures are also available to the Commission under section 222(b) to prevent any motor carrier from operating in violation of any provision of part II of the act, or any rule, regulation, requirement, or order thereunder (except as to the reasonableness of rates, fares, or charges and the discriminatory character thereof). In addition, section 222(a) makes any such violation punishable by a fine of not less than \$100 no more than \$500 for the first offense and not less than \$200 nor more than \$500 for any subsequent offense. Part III of the act relating to water carriers contains comparable provisions. With respect to civil liability, sections 8 and 16 of part I, and section 308 of part III of the act subject railroads and water common carriers, respectively, to liability for the payment of damages to persons injured by them through violations of the act. There are no comparable provisions applicable to motor carriers or freight forwarders in this respect.

For the sake of continuity of subject matter, I would like at this point to discuss the provisions of H.R. 617 insofar as they would apply to surface transportation. This bill would make it a felony for any person, as that term is defined in the bill, under color of any State law, or otherwise, to make any distinction, discrimination, segregation or restriction on account of race, color, creed, or national origin, with respect to the admission of any individual to, or the accommodation or service of any individual in, any public conveyance on land or water or in the air, any place of accommodation, resort, entertainment, or amusement, or any place of public assemblage, or institution, or to aid in, incite, or cause the making of any such distinction, segregation, or restriction. Any one violating these provisions would be liable for each offense to a penalty of not less than \$500 or more than \$1,000 recoverable by the aggrieved person in a civil action. In addition, the violator would be subject to a fine of not more than \$1,000, or imprisonment for not more than 1 year, or both.

The phrase "public accommodation, resort, entertainment, or amusement" and the term "institution" are defined in some detail in the bill, but the term "public conveyance" is not specifically defined. The language employed in the proposal, however, seems broad enough to apply to all public conveyances, irrespective of whether they are publicly or privately owned or operated, or whether they are operated in intrastate commerce or in interstate or foreign commerce.

It also appears that the phrase "under color of any State law, or otherwise" as used in the bill, could be construed as meaning under the authority of any State or Federal law.

All that I have stated concerning the Commission's jurisdiction under the Interstate Commerce Act and its decisions thereunder with respect to the racial segregation of passengers, and the penalties and other relief provided in the case of violations, is equally applicable to H.R. 617 insofar as that proposal would apply to public conveyances operated in interstate or foreign commerce by carriers subject to the

Commission's jurisdiction. I shall not, therefore, repeat that discussion.

The application of the prohibitions in H.R. 617 to public conveyances operated in intrastate commerce, especially if operated by private interests would, I believe, raise serious questions as to its constitutionality. It would also appear that if the bill is intended to apply to a person acting under authority of a valid State law, as distinguished from acting under color of a State law, such person would be placed in an untenable position of subjecting himself to penalties under Federal law if he complies with or attempts to enforce the State law, or of subjecting himself to possible penalties under State law if, in attempting not to violate the Federal law, he fails to comply with or enforce the State law. While the bill may not have been intended to have this effect, the language employed is susceptible to such construction. The subcommittee may therefore wish to consider amending the bill for purposes of clarification in this respect.

It is also noted that while commission of the acts prohibited by H.R. 617 would constitute a crime and would be punishable by the imposition of substantial penalties, the bill is silent with respect to any element of intent. The subcommittee may, therefore, also wish to consider amending the bill to provide, as in 18 U.D.C., section 242 (which relates to deprivation of rights and the imposition of different punishments, pains, or penalties because of race, color, or national origin), that the proscribed acts shall be punishable as provided if committed wilfully.

As to whether or not the provisions of these three bills, to the extent that they would write into statute what the Commission has done through administrative action under existing law as to carriers subject to its jurisdiction, should be enacted, is, in our view, a matter of broad congressional policy on which we take no position.

Returning now to H.R. 351 and H.R. 619, it is noted that both of these bills would amend the Federal kidnapping laws to include the transportation in interstate or foreign commerce of any person unlawfully abducted and held because of his race, color, religion, or national origin for purposes of punishment, correction, or intimidation. Since statutes of this nature usually contain provisions relieving interstate carriers of liability unless they "knowingly" engage in the act or acts declared unlawful, it is suggested that provision for such relief be included in section 107 of H.R. 351. The corresponding section in H.R. 619, section 808, contains such a provision and is not therefore in need of amendment to accomplish this purpose.

H.R. 351 and H.R. 619 both contain provisions, differing somewhat in detail, which would make it an unlawful employment practice for any employer, as defined therein, including any agency or instrumentality of the United States, including the District of Columbia, or of any Territory or possession of the United States, to refuse to hire, to discharge, or otherwise discriminate against any individual with respect to the terms, conditions, or privileges of his employment because of race, religion, color, national origin or ancestry. Such employers would also be precluded from utilizing in the hiring or recruitment of employees, any employment agency, placement service, training school or center, labor organization, or any other source which so discriminates against individuals. Both bills would, in ad-

dition, make it an unlawful employment practice for employers, and others, to discharge, expel, or otherwise discriminate against any person because of his opposition to any unlawful practice or because of his filing a charge, testifying, participating, or assisting in any proceeding, as provided for under the proposed new statute, for the disposition of complaints alleging unlawful employment practices.

At this point I would like to emphasize that it is the Commission's policy to appoint the most qualified persons available to fill all vacancies that occur regardless of a person's race, color, religion, national origin, or ancestry. Promotions are made on the same basis. Employees are separated from the service by the Commission only for such cause as would promote efficiency of the service, or in an orderly reduction in force where retention rights are determined by length of service, permanent status, veterans' preference, or other legitimate factors.

Provision is also made in both of these bills for the creation of a new commission of seven members which would be charged with the responsibility of administering the new statute against unlawful employment practices. Its duties and responsibilities would include the investigation, and if necessary, the hearing of complaints alleging unlawful employment practices by employers subject to the new statute, including the agencies and departments of the Federal Government. The commission's orders would be subject to judicial review, except for orders directed to any agency or instrumentality of the United States, or any Territory or possession thereof, or of the District of Columbia, or any officer or employer thereof. In the latter instance the commission would be authorized to request the President to take such action as he may deem appropriate to obtain compliance with such orders.

H.R. 619 would, in addition, confer upon the President authority to take such action as may be necessary (1) to conform fair employment practices within the Federal establishment with the policies set forth in the proposed new statute, and (2) to provide that any Federal employee aggrieved by any employment practice of his employer must first exhaust the administrative remedies prescribed by executive order or regulation governing fair employment practices within the Federal establishment before seeking relief under the proposed new statute.

The civilian employment practices of the Commission, as well as those of other Federal departments and agencies, are now governed in this respect by the provisions of Executive Order No. 10590, dated January 18, 1955, and regulations issued pursuant thereto. The President's Committee on Government Employment Policy was established under this order. Both of these bills contain provisions authorizing the President to provide for the establishment of rules and regulations to prevent the committing or continuing of any employment practice condemned by the new statute by any person making a contract with any agency or department of the Federal Government when the contract requires the employment of at least 50 persons. Such rules and regulations would be enforced by the new commission.

Other provisions in H.R. 351 and H.R. 619 relating to unlawful employment practices would require the posting by employers, and others, of notices containing excerpts from the proposed new statute and such

other relevant information deemed appropriate by the new commission. Penalties are provided for the willful failure to do so. Provision is also made for the preservation of special rights or preference respecting the employment of veterans. The new commission would be authorized to issue, amend, or rescind suitable regulations for carrying out the provisions of the new statute, subject to the overriding right of the Congress to nullify such action by concurrent resolution. Both bills also contain provisions against forcibly resisting the new commission or its representatives in the performance of their duties. In this connection it is noted that section 714 of H.R. 619 refers to section II of title 18 of the United States Code, which defines the term "foreign government." The reference may have been intended to be to section III of title 18 entitled "Assaulting, resisting, or impeding certain officers or employees."

As to whether or not the provisions of the proposed new statute dealing with employment practices should be made applicable to the Federal departments and agencies, in addition to the Executive order now in force, which we have adopted so far as applicable to our agency, and it involves a question of broad congressional policy upon which we take no position.

I will be glad to try to answer any questions.

Mr. RODINO. Thank you, Mr. Tuggle.

Mr. Tuggle, what in your opinion is the general situation as you view it now, the position of the ICC with relation to incidents that arise relative to the full and equal enjoyment of accommodations, advantages, et cetera, of common carriers? Do you get complaints of that nature? Do they come to your attention?

Mr. TUGGLE. Yes, sir, we do receive some complaints, not a great many; roughly I would say between 20 and 30 a year. Some of those are where they informally complain to us directly; some of them are referred to us by the Department of Justice, because on the face of the complaint might indicate that it came under section 3 of the Interstate Commerce Act.

We investigate all of them, if there is any semblance of violation, and would take appropriate action to eliminate the discrimination.

The Keys case, which was the bus case, and the Frisco case, which was the rail case, declare our policy that there shall be absolute equality of treatment and no discrimination.

Mr. RODINO. In your opinion, and again I am merely asking your opinion, what is the climate now with relation to this situation as compared to 5 or 10 years ago?

Mr. TUGGLE. Well, it has greatly improved.

Mr. RODINO. Would you say that this is due to a different public opinion prevailing today, and an acceptance on the part of the public that this is the law and this is the way it should deal with situations, or is it because of inquiries being made and enforcement of the various provisions that are presently on the statute books?

Mr. TUGGLE. Well, I think it is due partly to both, Mr. Chairman.

There is a stronger force of public opinion to eliminate discrimination, and, of course, after our decision in the railroad case, and the bus case, the carriers under our jurisdiction have nothing to do except to live up to it or they are in trouble.

Mr. RODINO. In other words, calling these matters to your attention and enforcement on the part of the agencies, on the part of regulating authority, does bring about correction and does better the situation?

Mr. TUGGLE. It does.

Mr. RODINO. Mr. Rogers.

Mr. ROGERS (Colorado). No questions.

Mr. RODINO. Mr. Holtzman.

Mr. HOLTZMAN. Just one question, Mr. Chairman:

On page 3 of your statement, section 3, subdivision 1 of the Interstate Commerce Act which makes it unlawful "for any common carrier to make, give, or cause any undue or unreasonable preference," following it out, you say to any undue or unreasonable prejudice.

Has the word "undue" given you any problem, or do you know of any problem that has arisen from a construction of the word "undue"?

Mr. TUGGLE. We have never attached any weight particularly to the word "undue" in regard to passenger travel.

If there is discrimination per se it is a violation of the act.

Mr. HOLTZMAN. In other words, in your own construction of it, you don't measure what is due or undue?

Mr. TUGGLE. No, sir.

Mr. HOLTZMAN. Very good.

Mr. TUGGLE. We regard it as a word of surplusage in regard to passenger travel. It could have significance in the movement of traffic-freight, as the preference or advantage might be insignificant or inconsequential.

Mr. HOLTZMAN. No further questions, Mr. Chairman.

Mr. RODINO. Mr. McCulloch.

Mr. McCULLOCH. Did I understand you to say that in your opinion very great or at least substantial progress in the last several years had been made within your official knowledge in bringing about a lessening in discrimination?

Mr. TUGGLE. Yes, sir, beyond any question.

Mr. McCULLOCH. And you have been enforcing the law as you understand the law to be?

Mr. TUGGLE. Yes, sir.

Mr. McCULLOCH. That is all.

Mr. RODINO. If there are no further questions, we want to thank you very much, Mr. Tuggle, for your appearance here this morning.

Mr. TUGGLE. Thank you, Mr. Chairman. I am very glad to appear.

Mr. RODINO. The next witness is Mr. Lyman Brownfield of the Housing and Home Finance Agency.

Mr. Brownfield.

STATEMENT OF NORMAN P. MASON, HOUSING AND HOME FINANCE ADMINISTRATOR; PRESENTED BY LYMAN BROWNFIELD, GENERAL COUNSEL, HHFA

Mr. BROWNFIELD. Mr. Chairman, and members:

I have a written statement of Mr. Norman Mason, who is the Administrator of the Housing and Home Finance Agency, and I believe that has been distributed.

Mr. Mason regrets that he could not be here, but when he discovered last week he could not, he prepared his own personal statement, anyway, and asked me to present that to the committee.

Mr. RODINO. You may proceed.

Mr. BROWNFIELD. This is his statement:

The Housing and Home Finance Agency appreciates the opportunity to appear before your subcommittee today to testify on H.R. 351, introduced by Representative Dingell, with respect to the assurance of equal rights and opportunities to all Americans regardless of race, color, or national origin.

Mr. Mason's testimony is directed toward proposals contained in section 701 since it is this part of the bill that relates to programs of the Housing and Home Finance Agency.

Section 701 states that no home mortgage shall be insured or guaranteed by any Federal agency unless the mortgagor agrees that in selecting purchasers or tenants he will not discriminate against anyone by reason of race, color, religion, or national origin, and that while the Federal insurance is in effect he will require purchasers from him to agree to the same thing. The section also states that in the administration of a number of specified laws relating to housing, urban renewal and community facilities, it shall be the policy of the United States that there shall be no discrimination or segregation by reason of race, color, religion or national origin.

In giving this testimony, Mr. Mason first cites some basic aspects of his own philosophy. They influenced his actions as Federal Housing Commissioner. They will do so in his broader job as Housing Administrator.

Our first responsibility in carrying out Federal housing programs is to the people of America—all the American people. The job of the Housing and Home Finance Agency is to assure continuous progress toward better housing and better communities. To accomplish this, we must become working partners with builders, lenders, planners, local and State officials, and with civic organizations.

It is Mr. Mason's personal view that the benefits of urban renewal, FHA mortgage insurance, public low-rent housing assistance, and indeed all aids of this Agency must be made available to all families on an equal basis, irrespective of race, color, creed or national origin.

The worth of any philosophy, however, lies in how it is implemented. This means administering programs so that philosophy is translated into practical steps.

As Federal Housing Commissioner, Mr. Mason took steps to implement his philosophy. Since this is the most recent experience which Mr. Mason brings to his new position as Housing Administrator, Mr. Mason briefly summarizes some steps he initiated in FHA and, even more important, shows how each step was followed up continuously with forceful administration.

Mr. Mason's initial FHA effort was directed primarily and basically toward the business of private enterprise operators in the various segments of the home-building industry. Two months after he took office, he learned that local and regional home-builder associations were sponsoring nationwide meetings to consider a production program to serve minorities. By special personal message, he let the builders attending these meetings know that FHA would take active

steps to encourage and assist the development of open-occupancy demonstration projects in suitable key areas, and that resources for assisting those who wanted to develop such housing were at their full command. To put this commitment into action within FHA, both headquarters and field staff were trained to make their participation and assistance thoroughly effective. Today, a multimillion dollar program of truly open-occupancy projects, located throughout the country, has gone forward. Even more important, this step has resulted in a steadily increasing number of projects being made available to qualified renters or purchasers without regard to race, color, or creed.

In our opinion, these developments are deeply significant in overcoming traditional difficulties in establishing a free housing market.

In a similar manner, Mr. Mason initiated cooperation with the Mortgage Bankers Association of America for a nationwide study to make progress in overcoming home financing problems for minorities. Their findings supported FHA's own observations that when the same lending standards were applied, results in home financing for minorities were "satisfactory or better." Here was an achievement we felt would help overcome fears often associated with efforts to meet housing requirements of minorities.

Mr. Mason promptly took several administrative actions to make sure FHA's Insuring Directors understood the practical, affirmative value of the study in their daily insuring activities.

Also as FHA Commissioner, Mr. Mason took prompt steps to cooperate where States and localities have enacted legislation to prohibit discrimination and segregation in private housing built or marketed with FHA-insured mortgages. The members on this subcommittee are undoubtedly familiar with the plan of cooperation initiated between FHA and New York State. Similar cooperation is in effect in other States. Such steps mean more than devising agreed-upon plans. They mean gearing staff to give useful assistance, with basic understanding of FHA's spirit and principle in undertaking such cooperation. FHA does not enforce State and local laws—this belongs to the States and localities. In carrying out insuring activities, however, FHA does help builders live up to the spirit of the laws. Perhaps the greatest common denominator in housing is the FHA standard appraisal system which is recognized nationally. This dispels the old evil of two valuations—one for members of minority groups and another for others.

Throughout Mr. Mason's term as FHA Commissioner, he recognized the importance of securing competent, efficient staff to advise him in this important human relations field. Staff was increased, but perhaps more significant, the breadth of the job was expanded. It was felt that staff at all stages of FHA's insuring operations have responsibility to make progress in developing housing opportunities for minorities in a free market. Breadth of experience is necessary as well as specialization. This guided Mr. Mason's administrative actions, both with respect to staff appointments and assignments.

As Housing Administrator, his responsibilities extend to all programs in the Housing and Home Finance Agency. Since January 14, he has, therefore, been treading new paths. He is now studying steps toward further gains in all Agency programs.

Let me now turn to some important aspects of the Urban Renewal program in this field. Urban renewal deals primarily with wornout residential areas which cannot ordinarily be renewed without at least some demolition of existing shelter. The most severely blighted areas often must be completely cleared. The situation is complicated because large segments of our total housing supply are not available to members of minority groups. Negro and other minority families are confined and concentrated, by and large, in the very areas most in need of renewal. These groups are also becoming a larger and larger element of our central city populations. The Urban Renewal Administration has been deeply concerned with these severe problems and has developed specific administrative policies toward overcoming them.

One very important policy is that slum elimination projects must not reduce the supply of housing available to minority groups in the community. In renewing areas occupied by Negroes, for example, nonresidential uses, special residential reuse, price levels of residential use beyond economic reach of such families or other factors may reduce the amount of housing they can take up in a particular project area. Where this is the case, URA requires that standard housing in replacement of the loss must be provided in the community.

Another policy prohibits any limitation in the project plan on the occupancy of any part of the project area to any particular racial, color, or religious group. Also, before the disposition of land in a project area, URA requires that any covenants restricting the sale, lease, or occupancy of project land on the basis of race, creed, or color must be removed. Disposition documents must prohibit their re-establishment.

These are useful steps but perhaps no phase of urban renewal in this field is more important than relocation. Wherever the housing supply is not freely available to minority group families to be displaced from a project area, it is here that URA has carefully worked out special requirements to make sure that members of the minority group can nevertheless be offered standard rehousing accommodations in accordance with law. To carry out this clear purpose, information about rehousing needs of racial groups and resources for achieving this is required. This information is studied and analyzed for practical operating reasons—and unless believed feasible, the relocation plan is not approved.

Vacancies in standard housing, both sales and rental, must be within the financial reach of displaced minority families. Local regulations must be effective in preventing illegal conversion of residential structures in racial transition areas. Where vacancy rates are low and existing housing cannot be relied upon, firm encouragement is given early in the planning stages of urban renewal projects to stimulating new housing production.

These policies and procedures, we believe you will agree, are basically good. They are netting good results. Today nonwhite families are being rehoused much better than earlier in the program. More are rehoused in standard housing, private and public. By December 1957, private housing had absorbed 39 percent of the displaced nonwhite families as against 31.5 percent in September 1955. Also redevelopment planning of new housing open to nonwhite families is

far more extensive today than before. By December 1958, nonwhite occupancy existed or was expected in 33 of a total of 37 projects in continental United States where housing construction was completed or underway.

A most hopeful sign of progress is that the federally aided renewal program in localities, with its heavy residence of nonwhite families in project areas, is bringing about community action towards increasing housing opportunity for minorities. Communities are beginning to deal with troublesome effects on the whole community of racially restricted housing patterns. The public, press, civic, and industrial leaders are getting into action—many for the first time—to try to solve the problem. Public officials are giving more aid to developers with respect to land, financing, zoning, and other development problems. In rehabilitation-conservation projects in areas frequently undergoing racial transition, new opportunities are coming forward to stabilize the new racial pattern as physical renewal of a neighborhood proceeds.

These are some of the trends of progress. They represent good omens for the future. But, at best, they are only beginning fermentations. Action in this program also must be continuously strengthened. The Administrator expects to take leadership and responsibility in doing so.

A main objective is to make sure that urban renewal does not adversely affect the housing situation of minority groups, but actually increasingly improves their housing conditions and opportunities. We are constantly looking for new ways to make further progress.

In commenting on the public low-rent housing program, let me observe that this program has been most noteworthy in providing a vast amount of standard housing for eligible low-income minority families.

Under our statutory authorities, the public low-rent housing program is by its very nature a locally owned and administered program. Local housing authorities make the decisions and determinations relative to eligibility and occupancy in accordance with specific provisions of the Federal act and State law primarily relating to family income. Only recently, local responsibility for the program was again emphasized in congressional hearings.

Within this statutory setting, where local housing agencies deem a policy of open occupancy feasible, PHA gives positive assistance in making the step an affirmative one. In any instance, PHA requires that adequate provision be made for eligible families of all races determined on the appropriate volume and urgency of their respective needs. Additional public housing will not be assisted in communities found to be neglecting the needs of any race.

Since racial minorities constitute a large proportion of low-income displacees, and since such displacees receive a priority for admission to low-rent housing, these circumstances orient the low-rent program significantly to serve their needs. This is evidenced by the fact that on March 31, 1952, total low-rent public housing units occupied by Negroes numbered 72,075, or 37.9 percent of all occupied units. By September 30, 1958, this number increased to a total of 181,557, or 45 percent of all occupied units.

Most encouraging, some local housing authorities are initiating studies and action in their communities, particularly in selecting sites

for public housing that better lend themselves to becoming a part of the surrounding community. Some sites being chosen are open-land sites away from minority and ethnic concentrations. The more favorable surroundings will help establish more desirable community relations, thus breaking down barriers. New York City is an example of such activity.

Before closing, let me comment briefly on the voluntary home mortgage credit program. VHMCP operates as a clearing house service, without cost to applicants. It helps make mortgage money available to people in small communities and for minority groups in any area who cannot obtain FHA-insured or VA-guaranteed loans on terms as favorable as are generally available to others in the area. Here is a significant and useful service to members of minority groups that often have difficulty in securing loans. It operates by rechanneling available mortgage investment funds, and by bringing together lending institutions and borrowers.

During its four years of operations, the VHMCP has helped more than 8,000 minority group families in metropolitan areas with their mortgage problems. Through February 1959, VHMCP replacements of minority housing loans totaled approximately \$74 million. Based on the record in large cities alone, the VHMCP has placed over 65 percent of the minority applications it has received. Many loans have been made to members of minority groups in small communities through VHMCP, but VHMCP statistics in these areas do not distinguish between minority and nonminority categories. The program has also arranged the financing for three project loans covering 546 open-occupancy rental units, totaling over \$3 million.

These figures show remarkable progress. But here again, the Administrator is taking a look to see if we can make still further gains.

In his testimony, the Administrator has highlighted some approaches this Agency is presently making toward progress in this field. They are netting results. We are not standing still. We do not propose to do so.

At the present time, Mr. Mason is thoroughly reviewing all programs of the Agency. The aspects in this important field are not being overlooked. As indicated earlier, this is the way he approached his job as Federal Housing Commissioner, and the way he expects to approach it as Administrator.

With the effective program we now have and its future potentials under present laws you will appreciate the fact that the position must be that the Administrator does not urge the enactment of new legislation such as section 701 of H.R. 351 at this time. Let me at the same time point out that this administration has forcefully recommended legislation in assuring equal rights and opportunities for all when needed to accomplish these goals. The most recent example is the President's message to the Congress on February 5, 1959, when legislative measures in several civil rights fields were urged.

As you know, that message recommends extension of the life of the Civil Rights Commission, but contemplates that the Commission would make an interim report by September of this year. The Commission has been holding hearings on the subject of housing problems faced by minority groups. We in the Housing Agency are looking forward with great interest to receiving the benefit of the Commission's views when it files this report.

Mr. Chairman, this concludes Mr. Mason's statement.

I have been authorized to advise that the Bureau of the Budget has no objection to the submission of the statement.

Mr. RODINO. Thank you very much, Mr. Brownfield.

Mr. Brownfield, I am impressed by the statement and by the fact that the Commissioner, Mr. Mason, indicates here that he has taken firm leadership of the program and recognizes the need to do something, and specifically I point to page 8 of the statement when you say, alluding to one of the programs under the housing and home finance program:

These are some of the trends of progress. They represent good omens for the future. But, at best, they are only beginning fermentations. Action in this program also must be continuously strengthened. I expect to take leadership and responsibility as Administrator in doing so.

Does that, Mr. Brownfield, seem to be consistent, though, with the statement that you make in conclusion, that you feel that there is no need at this time for any further legislation in this direction? Are you convinced at this time we do not need any legislation in this area?

Mr. BROWNFIELD. I do not think we do. I believe in the Administrator's position.

I think, Mr. Chairman, that you and I, and everyone who considers this, has the same goal, which is good housing, decent housing for everybody in this country without any attention at all to what his race, color and religion, and so forth, might be, and the only problem we have is how do we get there.

I believe in Mr. Mason's position, that we are steadily approaching that goal; that good progress has been made, and the progress, I think, is like a snowball going downhill, it increases not just arithmetically, it increases geometrically, and that legislation is not needed to accomplish that.

Mr. RODINO. But you make quite a point, at least in Mr. Mason's statement, of the fact that his leadership, assuming the responsibility as Administrator, his direction of this program, implementing by certain actions—for instance, on page 4 you talk about insuring activities, “however, FHA does help builders live up to the spirit of the law.”

It seems that at all times there has to be a little push from the top. This, at least, is the general theme of your statement, as I interpret it, that despite the fact that there are these programs and these laws, why, nonetheless it takes a responsible leadership to actually carry it out to the hilt.

Mr. McCULLOCH. Mr. Chairman, if I could comment on your statement, I would like to do so, among other reasons by reason of the fact that the witness has been in the position which he now occupies for only 4 or 5 days, and has only been in housing of this kind in Washington since January of this year.

I think the statistics in the statement which were presented by Mr. Brownfield on behalf of Mr. Mason show that he is this kind of leader. I am most agreeably surprised, for instance, at the statistics in the middle of page 7, and I quote from the statement of Mr. Mason:

Also redevelopment planning of new housing open to nonwhite families is far more extensive today than before—

now this is an interpolation, these are the statistics that are most agreeable to me—

By December 1958, nonwhite occupancy existed or was expected in 33 of a total of 37 projects in continental United States where housing construction was completed or under way.

I repeat, I think Mr. Mason has done a remarkable job, and if we were making the progress in all fields that we are making in this field, I think we could all be a bit happy.

Mr. RODINO. Yes, I agree with the gentleman entirely. I think that on the whole this speaks well for the whole housing field.

As one who has supported such a program, and felt the need for the continuation of such a program, this is something commendable.

Mr. ROGERS. Mr. Chairman.

Mr. RODINO. Mr. Rogers.

Mr. ROGERS. Do I understand, Mr. Brownfield, you recently entered the Agency as attorney in that connection?

Mr. BROWNFIELD. That is correct, Mr. Rogers.

Mr. ROGERS. On page 6 of the statement you make reference to the replacement system for rehousing of people in urban renewal setups.

Mr. BROWNFIELD. Yes, sir.

Mr. ROGERS. Of course, maybe you are not aware of the inability of an individual who must be moved in an urban renewal project, and he must find new housing some place, that in order for him to get the money that is ordinarily due him under this setup, he has got to move into the other area before he can get the amount that is due from the Government, so to speak, or that they allow for that.

Do you contemplate that it is possible that where we know that a renewal project is going into force and effect where a person will be displaced and must find new housing, that some advance could be made by the Agency, the amount that is due him, in order that we can tie up a contract or purchase a new place outside of this area?

Mr. BROWNFIELD. You are talking about the displacee's—

Mr. ROGERS. Yes.

Mr. BROWNFIELD. The individual, Mr. Rogers?

Mr. ROGERS. Yes.

Mr. BROWNFIELD. Well, I have no knowledge of that from this end. But let me say that until January 19 I was a practicing attorney in Columbus, Ohio, where I sat on the other side of the table sometimes, and one of the last things I was doing was representing a displacee whose property was being appropriated, and we were having no difficulty there in making the arrangements, so that she could get the money to move into new property from the old.

I think there has to be a certification before the project can go forward to the effect that you are not going to tear down these homes and leave these people with no place to go.

There has to be other housing, but if that is available, and such a certification can be made, how the machinery down here works I haven't found out yet, but in Columbus, Ohio, we were on the other end having—we were able to work it out so she got the money in time to sign a contract to buy another piece of property.

Mr. ROGERS. Well, the reason I noticed this, and I think I sent a letter down to some part of the Agency where we were having a great deal of difficulty in the so-called Avondale project out in the city and

county of Denver, at least those whom I have had some letters from, that they were running into that difficulty.

Maybe they haven't proceeded in the right manner, and that is what I was anxious to know.

If it is possible that when you know that a project is going forward and there has been a certificate made that urban renewal is being carried out, and that this person will be displaced, that advances of money or sufficient money for down payments wherever they find a home could be available.

It is represented to me, however, that before they can make any collections or secure anything from the Government under the provisions that the transition had to take place, they had to already move, and be in the new place and have abandoned their old place before they could take advantage of the sums that they were given for displacement.

Mr. BROWNFIELD. I think that—whether that is completely accurate, I don't know, Mr. Rogers, but I do agree that under the arrangement title has to pass, that is, the displacee gets no money until title passes in connection with the acquisition of his property. I think that perhaps working that out is a question of red tape in the Agency, and if you are having a problem working that out you might run into the same problem working out in advance, because I will check into this further, and see that you receive a memorandum on the subject, Mr. Rogers.

But I believe that it is possible within the framework of the existing machinery to get this done if we just all do our job.

Mr. ROGERS. I would appreciate it if you would. This is important to the people in my district.

I noticed on page 10 of Mr. Mason's statement—and I recognize you are not authorized other than to present his views—that you don't urge the enactment of section 701 of H.R. 351.

As I read section 701 it in effect says, that where I as a subdivider or a builder go ahead and get ready to construct homes, and I make application for a guaranteed loan for these homes I am constructing, that all I am required to do in order to get the money, that I make an affidavit; that when I sell these homes to anybody, or when I get someone that will execute a mortgage, that when looking for purchasers I will not discriminate against any person or family by reason of race, color, religion, or national origin.

Well, now, do you envision that that would be any great hardship upon the administration to require that kind of an affidavit—

Mr. BROWNFIELD. You are having to ask me just a personal point of view, but I won't duck it. I will say once again let me take myself back to January 18 when I was a private lawyer in Columbus, Ohio, when I make a judgment as a lawyer frequently when passing on title, I wouldn't say I think this is good or bad, I have to guess at what other lawyers are going to do. What is the next man going to do who meets up with this situation.

I would have to guess what the problems would be that my client, the builder or my client, the real estate man, would run into, and I am trying to guess what other lawyers would tell other people about the problems they run into, and my own judgment is that the facts, as I don't control them at all, but just what the facts are, that this would

do a lot more harm to the building program than good, because I think that when it comes to the question of signing those affidavits in a Federal matter, that there would be a lot of people who would be worried about it, not people who were going to discriminate at all.

After you have been in business for awhile and you have had a number of things that you signed meet you on the way back, you begin to try to anticipate.

Mr. RODINO. We realize, Mr. Brownfield, that you are laboring under a bit of a handicap here, so to speak, and if there are certain questions that are directed which you feel you cannot properly answer, and should be answered by Mr. Mason, I would suggest that you say so.

Mr. BROWNFIELD. Thank you.

Mr. ROGERS. I recognize and appreciate that all you are here for is to present his statement, and of course, his statement is that he doesn't urge the enactment, and of course when he doesn't urge it, we must naturally assume that he is not very fond of it, and that is the reason that I was trying to see why he wasn't fond of it.

Naturally, you are not in position to say so, but maybe I can direct my question to saying prior to the time that you came on the 18th, being on the other side, was there any experience that you had had that would slow down a program if this was in the law?

Mr. BROWNFIELD. It is my judgment that that would slow down some builders, and I don't mean those, I am not talking about desire to discriminate, I am just talking about would be more pieces of paper you sign that somebody can, some dissatisfied customer can make an objection to some day.

Mr. ROGERS. Thank you.

Mr. HOLTZMAN. Mr. Brownfield, for several days we have been holding these hearings, and one of the questions involved was making permanent the President's Committee on Government Contracts, and the substantial argument made for it was that congressional approval, the mere fact of congressional approval would give much substance to the program, the fact that the Congress of the United States was interested in it.

Now, directing your attention to subdivision 2 of section 701 on page 52, will you agree with me that that is simply an expression of the sense of the Congress and would not in any way affect your operations at the Housing and Home Finance Agency?

Mr. BROWNFIELD. Well, I think it is too broad a question for me to answer as to whether it would in any way affect the Housing and Home Finance Agency.

Mr. RODINO. In other words, Mr. Brownfield, you have taken no position right now with relation to the question that was put forth to you by Mr. Holtzman insofar as this is concerned?

Mr. BROWNFIELD. Yes, except to say that I can't just offhand say yes, it is good. I don't say that it is bad. I just say that I think I am unable—there is more to this than just a small surface declaration, and that I can't just come to a conclusion that this would not have any effect upon HHFA operations so let's go ahead and do it. I just can't come to it.

Mr. RODINO. Mr. Donohue.

Mr. DONOHUE. I have no questions.

Mr. RODINO. Mr. Toll.

Mr. TOLL. Mr. Chairman, may I ask the witness a question?

Mr. Brownfield, is Mr. Mason the Administrator of the National Housing Act, is he Administrator under the National Housing Act?

Mr. BROWNFIELD. He is the Administrator of the Housing and Home Finance Agency. The National Housing Act, as amended, is administered in that Agency. I think his actual title is Housing and Home Finance Administrator.

Mr. TOLL. Of course, in your duties you are familiar with the National Housing Act as amended that is referred to in section 2 of title 701?

Mr. BROWNFIELD. I am familiar with it, but I hope to become a lot more familiar with it than I am, but I have some familiarity with it.

Mr. TOLL. Are you familiar with the Federal Home Loan Bank Act as amended?

Mr. BROWNFIELD. To some extent. As I say, there is another area where I hope to learn more.

Mr. TOLL. The same applies to the United States Housing Act of 1937?

Mr. BROWNFIELD. Well, I am generally familiar with these statutes, Mr. Toll. I have—most of these things, unless you are reading them at the time they blend together, and the familiarity with each act as an individual piece of legislation sort of fades into the next one.

Mr. TOLL. The question I have is this:

Do the National Housing Act as amended, the Federal Home Loan Bank Act as amended, the United States Housing Act of 1937 as amended, the Housing Acts of 1949 and 1950 as amended, contain any provisions prohibiting discrimination in housing because of race, religion, color, or national origin?

Mr. BROWNFIELD. Mr. Toll, I would have to say on that I have learned some time ago not to trust my memory in things like this, and before I would answer a question like that I would want to be able to check the statute, itself, with that particular question in mind.

Mr. McCULLOCH. Mr. Chairman, if I might interrupt:

By reason of the fact that my fellow Buckeye comes here under conditions that are not those which are ordinarily desired, I think that when questions of this nature are addressed to him, and it is impossible for him to answer them covering such a broad field, that either he or his superior, or his senior, the Administrator, be authorized to supply the answer by memorandum.

Mr. RODINO. I have already suggested that to Mr. Brownfield, and I am sure Mr. Brownfield, you recognize that no one on this committee is attempting to badger you or press you into answering a recognized position here, and if you are unable to answer that question and feel that the answer may be supplied by the Administrator or yourself, you may say so.

Mr. BROWNFIELD. Thank you, Mr. Chairman. I have considered that my treatment this morning has been courteous and it has been interesting, even when I haven't been able to answer the questions.

Mr. TOLL. Mr. Chairman, what I was trying to determine was the need for such a section. If there is no need for section 701, if it is now contained in these various acts, what is the purpose of 701 unless apparently—

Mr. RODINO. We will have to ask the author.

Mr. TOLL. Somebody ought to supply the information.

Mr. RODINO. Are there any further questions?

(No response.)

Mr. RODINO. If not, we want to thank you very much, Mr. Brownfield, for having come here, and we hope to be able to see you again in the future, and I am sure that the relationship will be as cordial.

Mr. BROWNFIELD. Thank you, Mr. Chairman.

Mr. RODINO. The meeting will now adjourn until Wednesday next, when the committee will reconvene with further witnesses.

Thank you very much.

(Whereupon, at 11:15 a.m., the subcommittee adjourned, to reconvene on Wednesday, March 18, 1959.)

STATEMENT OF HON. HUGH J. ADDONIZIO, 11TH DISTRICT, NEW JERSEY

Mr. Chairman and members of the committee, I thank you for the opportunity to appear today in support of my bill, H.R. 461, the Civil Rights Act of 1959, introduced by me on the opening day of the Congress.

I feel strongly that all Americans must put their hands and heads together to move forward—irresistibly and with purpose—toward true equality for all people, everywhere in the United States. As Archbishop Rummel of New Orleans stated in a recent pastoral letter on the racial controversy, "it would indeed be a calamity to our Nation were we to become permanently divided and distressed over an issue which involves basic human rights, moral responsibilities, religious principles and the solid foundations upon which our democratic way of life was conceived and developed."

The 1st session of the 85th Congress ended a stalemate of over 80 years by passing the Civil Rights Act of 1957. The passage of the Civil Rights Act of 1957 represents a substantial advance. But much remains to be accomplished. Any halt by Congress in the quest of progressively expanding the realm of liberty and justice under law will betray the principles of democracy and offend the conscience of the Nation. Despite significant and heart-warming gains, there is no question that the denial of the vital rights guaranteed by the Court is often frequent and grievous. There is a dire need for more Federal legislation to give impetus to the States in complying with the law of the land on these constitutionally guaranteed civil rights.

Mr. Chairman, it is imperative that the major shortcomings in the existing laws for the enforcement of civil rights are remedied by this Congress. There are compelling reasons why Congress must increase the power of the Federal Government to secure equality of rights and opportunities. The power of the Attorney General must be extended to enable him to seek injunctive remedies at civil law for violations of any and all constitutionally guaranteed civil rights.

I believe my bill, H.R. 461, the Civil Rights Act of 1959, provides a means of securing the cooperation of the various levels of Government and helps assure that the orderly processes of government will be active for the protection of the rights of our citizens.

H.R. 461 expressly recognizes the fact that we, here in Congress, approve of the recent decisions of the U.S. Supreme Court and many of our Federal district courts and courts of appeals, as well as State courts, holding racial segregation unlawful in public education, public transportation, and public recreational facilities.

Title I of my bill recognizes that these decisions upholding the equal protection of our laws correctly express the moral ideals of our Nation and make for a stronger and more dignified Nation.

Based on certain specific findings relative to the civil rights question, it is declared to be the intention of Congress that the right to the equal protection of the laws guaranteed by the Constitution against deprivation by reason of race, color, religion, or national origin shall be protected by all due and reasonable means and the other provisions are enacted to that end.

I am honored to be associated with so many distinguished Members of the House and Senate in the sponsorship of the Civil Rights Act of 1959. I have no desire to take the valuable time of this committee in detailing the provision of

this legislation, but I should like to append a brief summary of the bill for the record.

I thank you gentleman, and I am confident that you will agree that the moral conscience of the Nation cannot rest until all civil rights are made effective for all Americans.

TITLE II

The Secretary of Health, Education, and Welfare is authorized to assist States, municipalities, school districts and other local governmental units in eliminating denials of constitutional rights in public education by circulating information aimed at obtaining a public understanding of the problem; making surveys whereby segregation shall be eliminated in public schools; meeting and discussing with State and local representatives ways and means of eliminating segregation in public schools; making reports to Congress on the progress being made, etc.

It provides that the Secretary shall maintain specialists to assist in the plans for eliminating segregation in public education, and permits reimbursement to local officials and representatives carrying out authorized functions of the Secretary for travel expenses and subsistence.

For the purposes of this title, I would authorize appropriations totaling not over \$10 million spread over the next 5 years.

TITLE III

This title authorizes grants to States, municipalities, and school districts to assist in meeting the cost of additional educational measures undertaken in an effort to eliminate segregation in public schools.

TITLE IV

This title provides that the Secretary shall prepare tentative plans for the elimination of segregation in public education and forward such plans to the governor, mayor, or other appropriate officials for their concurrence.

Where State and local officials do not agree to the plans submitted to them by the Secretary, hearings are to be held at the conclusions of which the Secretary shall prepare and issue an approved plan for the elimination of segregation.

Appropriations are authorized for the fiscal year beginning July 1, 1959, and for each of the four succeeding fiscal years, such amounts as may be necessary for carrying out the purposes of this title.

The bill also provides for Federal assistance in legal remedies under titles V and VI.

TITLE V

The Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against State officials to enforce compliance with the approved plans for integration.

TITLE VI

The Attorney General is authorized to institute for or in the name of the United States a civil action or other proceeding for relief against any individual who deprives or threatens to deprive a person or group of persons of the right to equal protection of the laws by reason of race, color, religion, or natural origin.

TITLE VII

District courts are vested with jurisdiction of proceedings instituted under this act. Nothing in this act shall be construed to impair existing legal rights of actions or remedies already available to private individuals or organizations.

CIVIL RIGHTS

WEDNESDAY, MARCH 18, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE No. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:45 a.m., in room 346, Old House Office Building, Hon. Peter W. Rodino presiding.

Present: Representatives Celler (chairman), Rodino, Holtzman, Toll, and McCulloch.

Also present: William R. Foley, general counsel, and Richard C. Peet, associate counsel.

Mr. RODINO. The meeting will now come to order.

Our first witness this morning will be Mr. Bernard Weitzer, national legislative director, Jewish War Veterans.

Mr. Weitzer.

STATEMENT OF BERNARD WEITZER, NATIONAL LEGISLATIVE DIRECTOR, JEWISH WAR VETERANS, UNITED STATES OF AMERICA

Mr. WEITZER. Mr. Chairman, members of the committee, on behalf of the Jewish War Veterans of the United States of America, I appreciate the privilege and the honor of presenting to your committee the views of our organization on H.R. 3147 and related bills which you are considering to protect and enforce certain civil rights. The basis of our support of H.R. 3147 is embodied in the preamble to the constitution of our organization, founded in 1896 and now the oldest active war veterans organization in the country. I quote, briefly, from this preamble, the following excerpts which bear on the issues in the bill you are considering.

To foster and perpetuate true Americanism: to combat whatever tends to impair the efficiency and permanency of our free institutions; to encourage the doctrine of universal liberty, equal rights and full justice to all men; to combat the powers of bigotry and darkness wherever originating and whatever their target.

The basic purposes of our organization expressed in the selected excerpts I have quoted are more specifically stated in resolution No. 55 dealing with civil rights and unanimously passed at our 63d annual national convention in Los Angeles, last summer. Resolutions of similar tenor have been passed, regularly, at our annual conventions for many, many years. A copy of the most recent resolution is attached to this statement.

And I ask that it be included in your record.

Mr. RODINO. It will be included.
(The resolution referred to is as follows:)

CIVIL RIGHTS

Whereas our national strength stems from our dedication to the proposition that all men are created equal and are entitled to equal rights under our basic law; and

Whereas it is a fact of common knowledge that racial and religious discrimination, notwithstanding our Constitutional safeguards, still exist in many areas, restricting or denying equal opportunities to many of our citizens because of race, color, creed, or national origin, with a consequent waste of human resources resulting not only in economic loss to the Nation, but as well in weakening the moral strength of our Government in the councils of nations; and

Whereas there is a growing movement throughout the Nation to outlaw unfair practices based on racial and religious discrimination in housing, employment, education, use of public facilities, such as schools, etc., and at the polls; and

Whereas the success of the United States in promoting democracy throughout the world must, in the final analysis, be judged by how well we live up to our professed ideals: Now, therefore, be it

Resolved, That the Jewish War Veterans of the United States of America in 63d annual national convention assembled in Los Angeles, Calif., August 3-10, 1958:

1. Reaffirm their support of the program recommended by the President's Commission on Civil Rights and do hereby call upon Congress to adopt measure to implement that program in full; and

2. We wholeheartedly approve the good work being done by various States and communities throughout the United States in furthering programs of education and legislation to wipe out racial and religious discrimination and strengthen the practice of Americanism; and

3. We approve the continuing activities of the administration to enforce non-discrimination in executive agencies, including the Armed Forces and in companies holding Government contracts.

Mr. WEITZER. H.R. 3147 would satisfy the essence of our resolution more completely than any of the other bills you have under consideration or all of the other bills put together. It seems to me that a measure which deals with all the legal facets of the problem of supporting and enforcing the civil rights which are specifically mentioned, will meet the needs of the situation more effectively than piecemeal legislation.

I shall not attempt to elaborate, in detail, my praise for this bill. However, I am especially pleased with the findings as enumerated in section 102. Because of the keen interest our organization has in improving the education given to our youth in the public school system, I am glad to see that the bill includes, in title II, title III, and title IV, ample provisions for financial and technical assistance in meeting the problems of the public school systems in areas where difficulties arise.

The added powers provided in titles V and VI for the Attorney General will be helpful in deterring the creation of situations which will encourage the development of difficulties and the Department of Justice will have the powers which will assure enforcement of civil rights.

I would like to see added to the bill some provision, such as is covered in S. 957, to require election officials to preserve Federal election records for 3 years and make such records subject to examination by the Attorney General upon a Federal district court's order.

Mr. McCULLOCH. Mr. Chairman, if I might, I would like to interrupt the witness at that place, to make an inquiry.

I noted that the gentleman refers to S. 957, which is not before this subcommittee. But the administration bill which I sponsored, and which so far I have not noticed mentioned in his statement, contains an identical provision in title III.

I wonder if the witness objects to title III in the bill I sponsored, and if the does object, or if title III doesn't go far enough, does he have any suggestions or amendments thereto?

Mr. WEITZER. Well, when I went over these bills yesterday, in preparing the statement, I spent most of my time on S. 3147. I realized that your bill included the essence, I think, of 957, as I recall it.

Mr. McCULLOCH. Who is the sponsor of S. 957?

Mr. WEITZER. I don't recall the name, but it is one of the bills introduced at the request of the administration, as I understand it.

Your bill includes that whole series of bills which was introduced in the Senate, and I happened to pick those up first.

And I just went on the strength of that provision.

Mr. RODINO. Well, Mr. Weitzer, I believe that Mr. McCulloch's bill also provides for the same provision you are referring to in S. 957, the preservation of election records?

Mr. WEITZER. Yes.

Mr. RODINO. And that is the point Mr. McCulloch is making.

Mr. WEITZER. I glanced through that rapidly to see what Mr. McCulloch's bill covered. I think there are either five or six bills in the Senate dealing with the whole subject matter of Mr. McCulloch's bill.

Mr. RODINO. There are seven bills.

Mr. WEITZER. Seven?

Mr. McCULLOCH. My bill is a package bill that covers every recommendation made by the President in his special message to the Congress under date of February 5, 1959, including S. 957.

Mr. WEITZER. Yes.

Well, I read the Senate bills first. And when I came to your bill, I had known about it before—I realized that your bill put into one package what has been presented in the Senate in these various bills.

I felt that this provision for retaining the records would be a very important matter if there were a question as to the way in which voters might have been prevented from voting, whether their votes had been accurately counted, and so on.

Likewise I felt that this was a loophole that might hurt in trying to prosecute violations of what this whole legislative project is intended to do.

Mr. McCULLOCH. Well, of even more importance than the accurate, proper and legal counting of ballots, is the activity of local boards of elections in determining whether or not a person is qualified to exercise the franchise under given laws and under given statements of fact, isn't it?

Mr. WEITZER. I couldn't agree with you more, Mr. McCulloch.

I assumed, when I spoke of the vote, that it went all the way back to the matter of registration and qualifications for voting, which, of course, are particularly important where these boards apparently can jump in and out of office at will and thereby escape subpena, and their records seem to be subject to destruction at the will of the board.

If you fail to do anything that will insure the protection and the retention of those records over a period of time, you don't have the material with which to fight your case.

Mr. McCULLOCH. Do you see any harm that could come in any manner whatsoever by requiring a State, or a subdivision thereof, to maintain records for a reasonable length of time which relate to voting or qualifications for voting for President, Vice President, or a Member of Congress of the United States?

Mr. WEITZER. Well, I think it is certainly within the prerogative of the Congress to determine how to enforce equality of opportunity for whole procedure in voting for Federal officials.

Like all of you, I am a taxpayer, an income taxpayer, and I know that we have to keep our own records in regard to income for a certain period of time to enable the Internal Revenue Service to examine the accuracy of the reports which we render to them.

I don't see any reason whatsoever why the officials who have charge of the voting in the various parts of the United States, should not likewise preserve those records and have them available for examination by the proper Federal officials.

Although I would hope and expect that H.R. 3147 will prove effective in avoiding closing the schools, I would like to see added to the bill, an authorization to the Commissioner of Education to operate schools for children of the members of the armed services.

I think that is included in your bill, Mr. McCulloch.

Mr. McCULLOCH. Yes, that is included in title VI.

Mr. WEITZER. Of course, as a veterans' organization we feel a special obligation to the members of the Armed Services in this respect. I should think that all citizens would feel an obligation in that respect, because those are the men who protect our national safety. I think that when they are in service, at points scattered all over the country, that their children ought to have an opportunity for an adequate education, and not have it stopped by whatever happens to occur in the area where they happen to be serving.

I strongly favor the inclusion of such a provision in the legislation.

I hope your committee will consider, favorably, either in this bill or in a separate bill, the problem of making it a Federal crime to transport explosives across State lines for the purpose of coercing individuals and communities by wrecking public buildings, religious buildings, and residences.

Mr. McCULLOCH. Now, Mr. Chairman, I would like to ask Mr. Weitzer a question there.

Would you also approve a provision making it an offense to transport explosives across lines for the purpose of coercing individuals and communities which would include not only school buildings, religious buildings, and residences, but other structures as well, such as industrial structures, or structures built for industrial purposes?

Mr. WEITZER. Well, thus far I haven't read of any such instances. But it is conceivable that such coercion might be attempted by wrecking industrial buildings.

What I was thinking of in that statement is that anything which would tend, through this method of wrecking buildings, to coerce and intimidate people or communities, so that they would not respect and obey this civil rights legislation, I think ought to be provided for in

proper fashion against the transportation of explosives which might be used.

I might say this: I recognize that there are many difficulties in this problem. I lived on a farm, and I have a farm now. We have had occasion to use dynamite. And if a farmer has a few sticks of dynamite on his farm, and is not protected as adequately as most contractors, roadbuilders, and other people who use explosives—they generally protect theirs—and even that is not perfect protection, there is always the opportunity for somebody to steal explosives for the uses that I have indicated here.

Mr. McCULLOCH. Well, it would require careful language in order to protect proper uses of explosives. But it can be done, can it not?

Mr. WEITZER. Yes, I think it can be done. Of course, I am a retired businessman, and not a lawyer. But I always went along with Mr. J. Pierpont Morgan's saying, at least it is reputed to have been said by him, that he wants lawyers to tell him not what he can't do, but how to do what he wants to do.

I look to the members of this committee as competent to do the job.

Mr. McCULLOCH. Well, Mr. Chairman, one of the things that prompted that question was a rather prominent news story in the Washington Post and Times Herald of March 16, 1959. The headline to that two-column story is, and I quote, "Son of Striker Shot as Bomber."

And the third paragraph of that news story states that in this locality mentioned there have been 10 or 12 dynamite blasts since February 16, and I presume it is 1959.

Mr. WEITZER. Is that down in Hendersonville? I remember seeing the headline, but I didn't take the time to read the story.

Mr. McCULLOCH. Henderson; yes.

(The article referred to is as follows:)

[From the Washington Post and Times Herald, March 16, 1959]

SON OF STRIKER SHOT AS BOMBER

HENDERSON, N.C., March 15.—A textile worker seriously wounded a man "trying to light something" beside his car early today. Police found a stick of dynamite, with fuse attached, at the scene.

The shooting was the latest of a series of violent acts which have rocked this small city since the struck Harriet-Henderson Cotton Mills resumed limited operation 4 weeks ago.

There have been 10 or 12 dynamite blasts since February 16.

Garland C. Cash, about 35, told police he saw a man standing near the car outside his home about 12:30 a.m. When the man struck a light, Cash said, he fired.

James Merrill Manning, 23, was wounded in the right shoulder and right hip by the shotgun blast. He was reported in serious condition.

Sheriff E. A. Cottrell said a car owned by Michael Jarrell, 23, a friend of Manning, was parked at the scene, and that Jarrell admitted being present during the shooting.

The sheriff said neither Jarrell nor Manning had worked for the cotton mills but that the parents of both were strikers.

The Textile Workers Union of America walked off the job at the mills last November 17 because of a dispute over an arbitration clause for the new labor contract.

Mr. HOLTZMAN. Mr. Chairman, at that point—in other words, your position, Mr. Weitzer, is that if we can validly legislate against the bombings of residences also, this would be very helpful in enacting legislation to enforce the civil rights of our people, is that correct?

Mr. WEITZER. Well, I think there is no doubt that residences have been bombed to scare people, to force them out of the areas where I think they have a perfect right to live if they choose.

And our feeling is that any attempt or act of coercion or intimidation which comes through this particular means I think can be legislated against effectively if, as Mr. McCulloch pointed out, the language is carefully written.

Mr. HOLTZMAN. No further questions.

Mr. RODINO. Proceed, Mr. Weitzer.

Mr. WEITZER. May I respectfully urge your subcommittee to report H.R. 3147 favorably, and to use every effort to bring it before the House for a stunning vote of approval.

The enactment of this bill into law will mean a better America.

If I may add, when I was a boy, my father, who was an immigrant, came here after living for 6 years in England. He never tired of praising the wonders of our form of government and the American spirit.

Among the things on which he spoke most emphatically were education as it was conducted in the United States at that time (and I think it has improved), the right to vote, and the right for people to associate freely with everybody.

While living in England, as I say—he had observed that there was a type of caste system in London, where he had lived, which he found was absent in this country.

That is a personal reason why I feel that we ought to have the sort of legislation that we have been discussing here this morning, for that will assure the things that I feel truly have made our country the great country that it is.

Thank you very much.

Mr. RODINO. Thank you, Mr. Weitzer, for your very fine statement.

Mr. McCulloch.

Mr. McCULLOCH. Mr. Weitzer, I would like to ask a couple of questions.

First of all, H.R. 3147, Chairman Celler's bill, has been described by some as a legislative proposal which has many very strong and effective provisions in it; by others as a drastic measure.

On the other hand, one of the bills introduced in the Senate by the majority leader has been described as a very weak bill.

Now, I should like to describe my bill, H.R. 4457, as a moderate, temperate approach to a problem in which there are strong feelings far to the right and strong feelings far to the left.

Since enactment into law of a proposal in a controversial field often requires compromise, if our chairman's bill is unacceptable to a majority of the people on the committee, and if the Senate majority leader's bill, which has been described as being very weak, is unacceptable to a substantial portion of the committee, could you go along with the provisions of H.R. 4457, which seeks to implement every one of the seven recommendations made by our President?

Mr. WEITZER. Well, I have been around Washington now for 14 years, or 15 years. I started out here working with Mr. David Lawrence, as a vice president of one of his companies. For 12 years I have been the national legislative director of the Jewish War Vet-

erans. And I have yet to see a bill come out of Congress in exactly the same form in which it was introduced.

I recognize that in the legislative processes, that there is going to be a good deal of give and take.

It may be that the pressure of opposition in regard to some features of H.R. 3147 may require some giving in. But I feel that the provision of the powers for the Attorney General—I feel that the statement in section 102, are two very important matters.

Likewise, I feel equally as firm about the provisions which will make certain that those communities which have difficulties of one kind or another will get the technical assistance and the financial assistance that they require to meet those difficulties.

I think back to a bill in which I was keenly interested and still am, the housing bill, whose statement of intent is "an adequate home in the proper environment for every American family."

Now, I would very much hesitate to say that I would be happy with a bill that omitted the statement of the situation that goes in section 102, because I think that lays down the fundamentals of this situation.

I think that yesterday there were two things that appeared in the press which struck home to me. As I said to you before, I am not a lawyer, but I have a great respect for the law and for lawyers. And include in that respect the Supreme Court of the United States.

I was very happy to see the letter which the chairman, Mr. Celler, wrote to the Washington Post with regard to the criticisms expressed by some lawyers whom I wonder about in the House of Delegates of the American Bar Association who voiced criticisms of the Supreme Court—and I don't disagree with the right for anybody to criticize the Supreme Court.

But I read substantially all of the material in that report, and I was critical, as your chairman was, of the tenor, the language, the way in which that report was couched.

And at the same time, a man whom I have read for many years, Arthur Krock, touched on the same subject in a whole column in the New York Times.

The CHAIRMAN. What was the last?

Mr. WEITZER. I said Arthur Krock touched on the same subject you did yesterday in a full column in the New York Times, criticizing the form and tenor of the criticisms put out by the special committee and accepted by the House of Delegates of the American Bar Association.

Unfortunately, I don't know enough about the technical organization of the American Bar Association to understand how that came out.

But Arthur Krock he was equally critical, Arthur Krock was, of the defense attempted by the president of the American Bar Association, Ross Malone, as was your chairman.

Mr. McCULLOCH. Mr. Chairman, if I can interrupt—I would like to join with the witness in the statement of the chairman's letterwriting ability. Few people can write as good a letter, and to the point, as the chairman.

And I think all the members of the committee would agree with that.

I would like to ask the witness one more question along the line of my last question. I would like to have the witness' opinion on this

statement of facts—notwithstanding the fact that he believes H.R. 3147 is a better bill and will hasten that happy day which the witness wants.

If it is impossible to get all the provisions of 3147, does the witness find any fault with a single title in H.R. 4457?

Isn't it a step—and a long step—toward that which the witness desires to see accomplished?

Mr. WEITZER. Well, as a businessman, it was my job to negotiate a great many contracts that were complex and that involved a great deal of money.

When you come to the board of directors of a big corporation to spend a lot of money, something which is relatively new and which they consider revolutionary, by the time you get through, you don't have exactly the contract that you started out with.

And when I wound up with a contract—I was glad to get a contract.

The CHAIRMAN. Well—the Indians used to shoot their arrows at the moon. They knew they couldn't hit the moon. But they became expert arrow shooters, at least.

Here the bill that has been referred to, my bill, for example, is a much stronger bill than the second bill referred to.

You prefer, by all means, my bill, is that it?

Mr. WEITZER. Yes, sir.

The CHAIRMAN. Because although we may be shooting high, we may not reach all that—if we shoot low, we may be only getting that which is even much lower.

And, therefore, we must strive to get all we possibly can.

Mr. WEITZER. Well, you know, Emerson said, "Hitch your wagon to a star."

The CHAIRMAN. I have read the testimony of those who appeared before this committee during the hearings of last week. Among them was Attorney General Rogers.

And I must say I am greatly disappointed with the halfhearted approach of the Attorney General to this problem. It would bring us integration probably only decades hence.

Instead of integration with deliberate speed, we would encourage deliberate delay.

Cervantes, the great Spanish author, said the following concerning delay:

By the street of by-and-by one arrives at the house of never.

I think if we take the halfhearted approach of the Attorney General, which is embodied in the distinguished gentleman from Ohio's bill, I don't think we would get too far.

And I say that with all due deference to the gentleman from Ohio, who is sponsoring the administration bill.

I am in emphatic disaccord with the administration bill, because it doesn't go far enough. And I think that we have to train our sights much higher.

Mr. WEITZER. Well, I will say this: I believe——

Mr. McCULLOCH. Mr. Chairman, may I reply?

Of course, one of the things that we are trying to protect, even as to the matters before this committee now, is the right to disagree, and yet be in friendly disagreement.

And that is where I presume the chairman and I find ourselves.

I described the administration bill, the bill which I have sponsored, as being a temperate, moderate bill; one which will move us as rapidly as I think we can safely move down the road to the destination which we all have in view.

My distinguished chairman, great reader that he is, has referred to the famous Spanish author. And with the abstract thought in the quotation I cannot disagree.

But we have the happy faculty in America, of proceeding slowly but surely to our destination. Few, if any nations in the world have such a splendid record of achievement.

The mere fact, Mr. Chairman, that there are literally millions of people seeking to come to our shores, leaving loved ones behind, pulling up roots of centuries, compared with the fact that there are few, if any, Americans who are willing and anxious to pull up their roots and leave their homes and loved ones to go to distant shores, is proof that America continues in the world's eye the land of freedom and opportunity.

So, in the field of civil rights, a field which is so fraught with emotions, the proper approach, if I may use the phrase I like so much, is the approach of the golden mean. This is the approach which will take us down the road to the destination of equal rights for everyone. Thus, even though the arrow is not aimed at the moon, as some would like, if it hits its target we have accomplished what we have in mind.

The CHAIRMAN. Well, I don't want to argue with our good friend. But I would be in accord with what the gentleman from Ohio said were it not for very distinct factors which make it crystal clear that we have to take more deliberate and more forceful action than envisaged in the bill offered by the administration as channeled to this committee by the bill of the gentleman from Ohio.

We have, for example, certain factors which we can't lose sight of. We have the southern manifesto, for example, which was signed by nearly all of the Senators and Representatives of both parties from the South.

Two, some States have already closed their schools, rather than integrate.

Three, many States' communities have vowed not to move toward integration unless the Federal authority is invoked to compel them.

Four, Virginia, for example, has proclaimed "massive resistance."

Five, integration in certain States has meant withdrawal of funds by State legislatures.

Six, as of the early part of this year, almost 5 years after the Supreme Court decision, only 4 of the 11 States of the old Confederacy are complying, but only in a fashion. Seven remain defiant. As has been stated, the Deep South has dug in for the duration."

Seven, the majority of the elected officials of a number of States have won elections because they pledge themselves to keep Negroes out of white schools.

Eight, Little Rock and Clinton are still moles in the Nation's eyes.

Nine, forced resistance to court decisions has lost us much prestige abroad. More than half of the world is colored. We cannot live properly and successfully without that half.

In the light of those factors, I don't think that we can proceed as slowly and as passively as is indicated by the remarks of the gentle-

man from Ohio, for whom I again say I have the most profound respect.

Mr. WEITZER. Well, Mr. Chairman, some of this reminds me of the time when I lived in New York. There is a railroad runs out of there, used by commuters—

The CHAIRMAN. Why did you leave New York? It is a good place.

Mr. WEITZER. What is that?

Mr. RODINO. Mr. Chairman, may I just ask the witness a couple of questions?

Would you describe H.R. 3147 as being drastic legislation?

Mr. WEITZER. No, I would not say it is drastic. I think it is far-reaching. That is an entirely different implication than drastic.

Mr. RODINO. And in your estimate, H.R. 3147 is a proposal which is necessary to effectively carry out the enforcement of civil rights, is that right?

Mr. WEITZER. That is my opinion?

Mr. RODINO. Thank you very much.

The CHAIRMAN. Well, thank you very much, Mr. Weitzer. We have three other witnesses to hear.

Have you finished?

Mr. WEITZER. Well, I was just going to relate this old saying around New York, about the Delaware, Lackawanna & Western—the commuters say it is delay, linger, and wait.

And I am against a policy of delay, linger, and wait. I recognize that things may not move as fast as I like them to. But I want them to move as fast as they possibly can.

And I think if you don't start out with the intent of moving as fast as you possibly can, you will go slower and slower.

Mr. McCulloch, you may look upon your bill as a moderate bill, but I am sure that there are some Members of the Congress that would describe it as drastic, too.

You see, all the way up and down the line, you are going to have objections. And I think the thing to do, for this committee, I hope, at any rate, will be to push a bill through as close to 3147 as it possibly can, and let the House vote on it.

I think that is the way to make the most rapid progress. And I would say, judging by your attitude today, Mr. McCulloch, that my temperament, generally speaking, is very much like your own.

But I would hate to see watering this bill down to a point where it won't do the job. And I think that is especially true of the powers that are granted to the Attorney General, which the administration, as I recall it, requested when the last bill was passed—and if I know Bill Rogers at all and I know him fairly well, I think he would welcome the stronger bill. Maybe I am wrong.

Mr. McCULLOCH. Well, Mr. Chairman, I must refer the subcommittee again to what happened last year; what the record shows with respect to the individuals who participated in that debate.

I think it was 1957 instead of last year. And I think it should be apparent to people who are interested in civil rights legislation, regardless of their opinion, where the road block came from which blocked what the witness is advocating this morning.

At the risk of repetition, I am hopeful that the administration bill, of which I am the sponsor, will be that moderate, temperate approach,

to which people on each side of the center of the road may in due course repair.

I think, while I do not have the authority to speak for the Attorney General—I am of the opinion, if he were here, he would endorse that statement, without equivocation.

Mr. WEITZER. Well, I am not speaking with any occult powers, or anything that Bill Rogers said to me. But I have known him for 10 or 12 years around here, and I think he is a wonderful Attorney General.

I recognize that as a member of the administration team he goes along with the administration.

But I think that he would welcome having the powers that are granted to him in H.R. 3147.

The CHAIRMAN. Well, thank you very much, Mr. Weitzer.

Mr. WEITZER. Thank you, Mr. Chairman.

The CHAIRMAN. Our next witness is Rev. Andrew Fowler, director of the Washington Bureau, National Fraternal Council of Churches, U.S.A.

STATEMENT OF ANDREW FOWLER, WASHINGTON BUREAU, NATIONAL FRATERNAL COUNCIL OF CHURCHES, U.S.A., INC.

The CHAIRMAN. You may proceed, Doctor.

Dr. FOWLER. Mr. Chairman and members of the committee, my name is Andrew Fowler. I am director of the Washington Bureau of the National Fraternal Council of Churches. I wish to thank the committee for the privilege to appear and state the views of the council. As I appear before this committee, I am aware of its interest and the efforts that it is putting forth to make this the land of the free—without any restraints upon those of this great land of ours because of previous servitude, race, color, or creed.

This committee has faith in the "American dream" and in seeking to lift the cloud and break down the barriers that keep all men from seeing it fulfilled and sharing in it.

We are progressing toward a democratic society; for this country of ours was democratically founded and grounded in Judeo-Christian principles which emphasized the dignity of man, created in the image of God with certain inalienable rights. Democracy is a way of life for all areas of life. It has to do with all the rights, liberties, and pursuits of the people in the exercise of their inalienable privileges in whatever area of life. As a government, we must, therefore, emphasize the sacredness and supreme value of personality, social and political justice, peace, fair distribution of the bounties of nature and brotherhood. We are obligated to make the best use of our Christian heritage, to explore new horizons in divine and human relationships. This involves a concern for justice in group relationships, freedom from discrimination in employment, equal pay for equal work regardless of race, equal educational opportunities for all children.

To bring these things to pass, the Government must have an instrument that will prevent racial discrimination, industrial autonomies, economic dictatorships, and political intrigue.

Experience and observation indicate that more than wishful thinking is necessary to have the laws of the land obeyed. There are still

evasions and resistances that reflect negatively upon this beloved land of ours, and cause those who look to us for leadership in all areas and the exemplification of our ideals in every endeavor to say that we are not a nation of "good intention."

Since the decision of the Supreme Court more than 4 years ago less than one-third of the 2,900 segregated school districts in the Southern and border States have complied with the ruling of the Supreme Court.

In some instances, school boards, desiring to comply with the ruling of the Supreme Court, have been threatened, harassed and intimidated, and these things, occasioned by a hard core of the lawless, and the circumventive State laws, many on their face unconstitutional, have hampered the smooth flow of the democratic and legal processes. Up to now implementation of the 1957 ruling of the Supreme Court has been brought about by individual parents and organizations seeking legal relief from evasive State laws for those who had been guaranteed the right to receive an education without any interference based on race, creed, or color. This needed not to have been and still should not be.

The Fraternal Council of Churches believes that it is the duty of the Federal Government to provide the authority that will guarantee the rights of each child under the laws of the United States.

Our Government must take a stand for right or be considered an abettor to wrongdoing. The Fraternal Council of Churches gives its unstinted support to that provision in the civil rights bill passed by the House in 1956, known as part III. We strongly urge Congress to enact that measure in this session.

This provision is a part of the Celler bill, H.R. 3147, which we approve; further, we also approve the Douglas bill, S. 810, and S. 456, introduced by Senator Javits, cosponsored by Senators Keating, Case (New Jersey), Cooper, Scott, and Allott.

The council is particularly interested in the Celler bill because that bill recognizes the necessity of supporting without reservation the 1954 ruling of the Supreme Court. Our law-enforcement agencies need the support this bill gives. In title VI the Celler bill authorizes the Department of Justice on its own initiative to seek preventive relief to protect the constitutional right of citizens in all civil rights situations, not merely in voting cases. The fact that litigation has been necessary all the way in Virginia tells us that this title is necessary.

Since, at this time economically weak parents have to provide legal action necessary to secure educational rights declared to be their constitutional rights, title VI of H.R. 3147 is extremely important.

The parents, individuals, and organizations working in the interest of these children have been persecuted.

We call upon Congress to put an end to this condition by enacting H.R. 3147 and its title VI.

Titles II and III would furnish assistance to those areas that wish to comply with the Court's order by providing counsel, guidance, information, and technical assistance, as well as grant-in-aid.

The Celler bill, H.R. 3147, would help make democracy a reality. The administration's bills before the House are good as far as they go. Protection of property should go beyond schools and properties of

religious organizations, and residential and properties of business organizations should be included.

We do sincerely hope that Congress will pass effective civil rights laws in this session.

The CHAIRMAN. Thank you very much, Dr. Fowler.

The CHAIRMAN. Our next witness will be Mr. Barrington D. Parker, Federation of Civic Associations.

**STATEMENT OF BARRINGTON D. PARKER, DISTRICT OF COLUMBIA
FEDERATION OF CIVIC ASSOCIATIONS, INC.**

Mr. PARKER. Mr. Chairman and members of the committee, my comments will be brief, and they will be devoted particularly to H.R. 4169 and H.R. 4348, dealing with the creation of a committee on job opportunities.

My name is Barrington D. Parker. I am a practicing attorney in Washington, D.C., and am the immediate past president of the District of Columbia Federation of Civic Associations, Inc., in whose behalf I appear here today. The federation represents the organized citizenry of the District of Columbia in civic matters and is now in its 47th year of service to the voteless citizens of our National's Capital.

At the regular meeting of the federation's executive committee, on March 11, 1959, the organization voted to endorse, in principle, House of Representatives bill 4169, to establish a permanent Federal Commission on Equal Job Opportunity.

Of course, Mr. Chairman, and members of the committee, as I read both H.R. 4169 and 4348, the language of those two bills is identical.

It is the considered view of the federation that the issue of equality of opportunity in employment for all Americans, is of vital importance. We believe this principle is a cornerstone of the moral foundation on which this Nation was built, and it is a matter of urgent importance to the Nation for three very practical reasons:

1. The growing industrial might and changing production techniques of our country require the largest possible reserve of manpower skills.

2. The requirements of national defense make it imperative that the skill potential of all groups be maximized against the day when we may be locked in a life or death struggle for survival.

3. In the world contest for the minds of men, it is mandatory that America not be subject to the charge of racial prejudice.

While it is true that the President's Committee has achieved measurable progress over its 5 years of operation in promoting equal job opportunity for workers, it is our belief that a permanent Commission needs to be established to assure that this progress continues in a manner which both achieves results and reassures all groups of an effective medium to implement national policy.

I would be less than candid if I did not say that the federation believes unrestricted employment opportunities to be of paramount importance to the exercise of other civic rights. We are mindful that other issues are important—however, we have found it difficult to impress on our members the intrinsic value of citizenship responsibility when they are denied the opportunity to work at their highest skill simply because of color, race, or national origin.

Moreover, we believe this objective can best be obtained through national legislation, because only in this way can both the executive

and legislative branches register their endorsement for this national policy.

In conclusion, Mr. Chairman, the federation believes that the proposed legislation will permit local groups like ours to help establish a bona fide interest in the basic principles of democracy; to help give new vitality to words which too often leave a yawning gap between economic preachment and practice.

That concludes the prepared text, Mr. Chairman.

I wish to state that while the Federation of Civic Associations did not have the opportunity to consider fully and prepare testimony with respect to H.R. 3147, may I point out in a personal capacity, that that bill which has been introduced by the chairman of this committee is much-needed legislation. And I feel that I am certainly expressing the considered judgment of the members of the federation, when I state that the bill should be given every favorable consideration of this committee.

In view of the developments which have taken place over the last several years, subsequent to the Supreme Court decision desegregating our public schools and since the Civil Rights Act of 1957, the provisions of H.R. 3147 appear to be a sound and practical approach to the many difficult problems affecting minority groups and the more than 17 million Negroes in our country.

I thank you for the opportunity to appear before you this morning.

The CHAIRMAN. Thank you very much, Mr. Parker.

Our final witness this morning will be Mrs. Wayne Dockhorn, member of the national board, Women's International League for Peace and Freedom.

STATEMENT OF MRS. WAYNE DOCKHORN, MEMBER, NATIONAL BOARD, UNITED STATES SECTION, WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM

Mrs. DOCKHORN. Mr. Chairman and members of the committee, I appreciate the opportunity to testify on behalf of the organization to which I belong.

I am Mrs. Wayne Dockhorn of 970 Woods Road, Southampton, Pa., member of the national board, United States section of the Women's International League for Peace and Freedom. This organization was founded in 1915 with Jane Addams as its first president. Throughout its history it has maintained a policy and program consistent with its purpose to work by nonviolent means for the establishment throughout the world of those political, economic, social and psychological conditions which can assure peace and freedom.

The United States Section of the Women's International League for Peace and Freedom comes before this committee to urge that the Congress of the United States assume its fair share of the responsibility for implementing the guarantees of the 14th amendment to the Constitution. As this committee is well aware, to date, the constitutional mandate requiring "equal protection of the laws" has been effectuated only through the courts, whose powers are necessarily limited in this area.

That the duty of protecting the guarantees of the 14th amendment rests directly upon the Congress is clear from section 5 of the amend-

ment, which provides that "Congress shall have power to enforce, by appropriate legislation, the provisions of this article." There should be no further delay in exercising this power.

The failure to supply the legislative framework within which meaningful efforts can be made to meet one of our gravest domestic problems—public school desegregation—has already had alarming consequences. It has supplied propaganda material for unsympathetic nations, has cast doubt upon the sincerity of American commitment to democracy, and has weakened our moral position in the eyes of the rest of the world. That it has gravely damaged our relations with the two-thirds of the world population which is nonwhite goes without saying.

Article I of the Universal Declaration of Human Rights provides as follows:

All human beings are born free and equal in dignity and rights; they are endowed with reason and conscience and should act toward one another in a spirit of brotherhood.

Whether we as a nation measure our responsibilities under the international obligations of the declaration or under the "supreme law of the land" as set forth in the 14th amendment, the responsibility exists to assure equal treatment for all, regardless of race, color, religion, or national origin.

The House bill, H.R. 3147, your bill, Mr. Chairman, affords the most effective method of meeting the most pressing aspects of the "equal protection" problem. This legislation makes possible an overall comprehensive approach to the key issue of school desegregation. By making it clear that the Congress of the United States approves the Supreme Court decisions outlawing segregation and recognizes that they embody the "moral ideals of the Nation," the bill places the legislative branch of Government squarely in support of the Supreme Court's statement that:

The principles announced in that decision (the Brown case) and the obedience of the States to them, according to the command of the Constitution, are indispensable for the protection of the freedoms guaranteed by our fundamental charter for all of us.

We call to the attention of the committee that the administration bills, though recognizing the Supreme Court decisions to be the supreme law of the land, fail to pledge Congress to support the decisions "by all due and reasonable means," as does H.R. 3147. We believe that Congress should strongly align itself in support of the Constitution and against State nullification of the 14th amendment.

The Women's International League for Peace and Freedom believes that the provisions of the Celler bill, H.R. 3147, which authorizes technical assistance and financial aid to state and local governments in bringing about desegregation of the public schools, offers a more constructive approach than the administration proposal H.R. 4457.

The administration proposal (H.R. 4457), while incorporating some of the desirable features of the Celler bill in respect to assistance to school systems, is less adequate and probably quite unrealistic as to the amount of money which will have to be spent if the Federal Government is sincerely interested in meeting the desegregation problems of the next several years.

The administration proposal ignores what we consider to be the very keystone of effective civil rights legislation—the grant of full authority to the Attorney General to institute court action to compel compliance with desegregation plans and to enforce equal protection. Without clear authority on the part of the Attorney General to take legal action when necessary (as provided in the Celler bill), the task of securing compliance with the Supreme Court's decisions will be almost insuperable. The administration proposal (H.R. 4457), making it a criminal offense to use force or threats to interfere with court orders in school desegregation cases, is of limited usefulness at best and is completely ineffective to handle the problem of those school districts wherein no court order is sought, either by a school board or an individual litigant.

Any legislation which falls short of a comprehensive approach to the entire problem of school segregation will be at best stopgap legislation, merely postponing the time for facing up to the real issues. While we support H.R. 4342, the extension of the life of the Civil Rights Commission, we point out that even if it is given specific authority to investigate all denials of civil rights it still will not have the statutory power to do the things which must be done if the school problem is to be met squarely.

We urge this committee to give careful consideration to legislation giving the Federal Government jurisdiction to handle the problem created by the bombings in recent months of churches, synagogues, schools, and businesses. It is undoubtedly desirable and necessary that the superior investigative resources of the Federal Bureau of Investigation be made available and the prosecution of those who perpetrate such atrocities not be left solely in the hands of local officials. We suggest, however, that the incidence of bombings bears a direct relationship to the successful defiance of the supreme law of the land by local and state officials, and we believe that the bombings will stop once it is made clear that such officials may not flout the law with impunity. Hence we support H.R. 4344, making it a crime to cross State lines to avoid prosecution for the crime of bombing such institutions. We should like to see it amended to apply to such attacks on residences also.

We also support the administration proposal H.R. 4348 and H.R. 4457 to give statutory basis to the President's Committee on Government Contracts. We urge the legislation be strengthened by providing for public hearings, the subpoenaing of witnesses and by giving the Commission power to direct termination of Government contracts in situations where the contractor persists in discriminatory practices.

We believe also that States should be required to preserve voting records for 3 years, and that they should be made available to the Federal Government upon demand. We urge your incorporating such provisions in the final draft of your recommendations.

The Women's International League for Peace and Freedom supported the efforts made to revise the rules in the House, in the belief that procedural changes were needed if civil rights legislation were to be passed. These efforts failed largely because of the assurances given by the leadership that civil rights legislation could be passed even under the present rules. We urge this committee to accept

these assurances and to give speedy approval to legislation designed to assure to every American that equal protection of the law to which he is rightly entitled.

The CHAIRMAN. You need not read the letter. We will make that a part of the record.

Mrs. DOCKHORN. Yes. I was just going to say I would appreciate having the resolution passed by our national board at its February meeting inserted in the record of these hearings.

The CHAIRMAN. That will be accepted in the record.

(The resolution referred to is as follows:)

WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM

UNITED STATES SECTION

RESOLUTION ON CIVIL RIGHTS

TO: The President of the United States

Senator Lyndon B. Johnson, Majority Leader

Senator Everett McKinley Dirksen, Minority Leader

Senator James O. Eastland, Chairman Senate Judiciary Committee

Representative Emanuel Celler, Chairman, House Judiciary Committee

Senator Thomas C. Hennings, Jr., Chairman, Senate Subcommittee on Constitutional Rights

Senator Paul H. Douglas

The National Board of the Women's International League for Peace and Freedom, meeting in Philadelphia, February 6-8, 1959, reaffirms its support of civil rights legislation, as reintroduced by Senator Douglas with the support of 16 Senators.

The Women's International League for Peace and Freedom approves the comprehensive coverage of the bill which includes such features as: express authority for the Department of Justice to initiate civil rights actions in court, financial aid to Southern communities attempting to desegregate, and technical assistance by the Department of Health, Education and Welfare in desegregation plans.

The Women's International League for Peace and Freedom welcomes the recognition by Senator Johnson and the Administration that action by the Federal Government is required to meet the problem created by the bombing of educational and religious institutions, and would urge that careful consideration be given to expanding the coverage of the legislation.

We support also the extension of the life of the Civil Rights Commission and statutory authorization for a Commission of equal job opportunity under Government contracts.

Recognizing that the conciliation and mediation proposals contained in Senator Johnson's bill may be a means at the present time of relieving tensions and reestablishing communication between divergent groups, nevertheless, we feel that this measure alone would not be a substitute for specific powers granted the Department of Justice and the Department of Health, Education and Welfare under the Douglas bill, nor for the proposals of both the Administration and Douglas bills for financial aid to Southern school districts involved in desegregation problems.

We urge speedy consideration of a civil rights legislative program for 1959.

Mrs. DOCKHORN. Thank you.

The CHAIRMAN. I want to offer the gratitude of the committee to you, Mrs. Dockhorn, for your statement.

Thank you very much.

Mrs. DOCKHORN. Thank you very much.

The CHAIRMAN. This will conclude the hearings for this morning. We will next meet tomorrow morning at 10:30 when we shall hear from the following:

Mrs. Paul Blanshard, Executive Director, Unitarian Fellowship for Social Justice; Mr. Irving Ferman, American Civil Liberties

Union; Mr. Robert R. Kiley, president, United States National Student Association, and Mr. John A. Roosevelt, Public Member of the President's Committee on Government Contracts.

I want to place a brief statement of my own in the record.
(The statement referred to is as follows:)

STATEMENT ON CIVIL RIGHTS

I have read the testimony of those who appeared before this Committee during the hearings last week—among them, the Attorney General Rogers. I am greatly disappointed with the half-hearted approach of the Attorney General to this problem. It would bring us integration probably only decades hence. Instead of integration with "deliberate speed," we would encourage "deliberate delay." Cervantes said the following concerning "delay"—"By the street of By-and-By, one arrives at the house of NEVER."

The Attorney General simply mirrors the views of his superior, the President, who keeps repeating the cliché that "the law of the land must be respected." Cliches are words—Action is needed. The President believes that integration can only come with good intentions. "Hell is paved with good intentions." The President gives us pontifical precepts, but no actual guidance or leadership. That leadership, therefore, must come from Congress. Nor can it come from those members from either body whose constituents are emotionally aroused on this subject. This has been made crystal clear by the following:

1. The Southern Manifesto which was signed by nearly all of the Senators and Representatives of both parties from the South.
2. Some States have closed their schools rather than integrate.
3. Many States' communities have vowed not to move toward integration unless the Federal authority is invoked to compel them.
4. Virginia has proclaimed "massive resistance."
5. Integration in certain States has meant withdrawal of funds by State legislatures.
6. As of the early part of the year, almost five years after the Supreme Court decision, only four of the eleven States of the old Confederacy are complying—but only in a fashion. Seven remain defiant. As has been stated, the deep South "has dug in for the duration."

7. The majority of the elected officials of a number of States have won elections because they pledged themselves to keep Negroes out of white schools.

Little Rock and Clinton are still motes in the Nation's eye.

Forced resistance to court decisions has lost us much prestige abroad. More than half of the world is colored. We cannot live properly without that half.

It is refreshing to note that the Federal courts have borne the laboring oar. They have done a masterful job under most trying conditions. The Executive branch has been more or less a spectator on the sidelines.

Now the Administration makes seven proposals. They are creditable as far as they go, but they constitute a most slow-moving approach. It is like trying to hit the moon with a bow and arrow. The so-called title III contained in the original Celler bill as passed by the House in 1957 and which was recommended by the Administration at that time, is strangely missing from the present proposals of the Attorney General. It is the very guts of any Civil Rights bill. It has been deliberately omitted. Such a provision, which is contained in my bill, H.R. 3148 and also H.R. 3147, would permit the Attorney General to sue out an injunction for and on behalf of a poor and lowly Negro whose rights have been denied or are about to be denied, which Negro, as is usually the case, is too ignorant, too pauperized, too frightened to sue for himself; which Negro has been threatened with economic reprisal or bodily harm and therefore, fears to sue for himself. Such provision insures a genuine preservation of civil rights not only as to schools and education, but as to civil rights on all levels, such as housing, labor, transportation. Now we have the Attorney General and the Administration already throwing in the towel. It is an unfortunate surrender.

The CHAIRMAN. We will now stand adjourned until tomorrow morning at 10:30.

(Whereupon, at 11:57 a.m., the subcommittee adjourned, to reconvene on Thursday, March 19, 1959.)

CIVIL RIGHTS

THURSDAY, MARCH 19, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE No. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:30 a.m., in room 346, Old House Office Building, Hon. Emanuel Celler presiding.

Present: Representatives Celler (chairman), Miller, McCulloch, Rogers, Holtzman, and Toll present.

Also present: William R. Foley, general counsel, and Richard C. Peet, associate counsel.

The CHAIRMAN. The committee will come to order. Our first witness this morning is Mr. John A. Roosevelt, public member of the President's Committee on Government Contracts.

Mr. Roosevelt.

STATEMENT OF JOHN A. ROOSEVELT, PUBLIC MEMBER, PRESIDENT'S COMMITTEE ON GOVERNMENT CONTRACTS

The CHAIRMAN. You may proceed, Mr. Roosevelt.

Mr. ROOSEVELT. Mr. Chairman, members of the Committee. I appreciate this opportunity to appear before the subcommittee in support of H.R. 4169 and H.R. 4348 which would establish a statutory Commission on Equal Job Opportunity under Government Contracts.

This legislation was recommended by the President in his Special Message of February 5 on civil rights. It is also part of H.R. 4457, the bill introduced by the ranking minority member of the committee, which incorporates all of the President's civil rights recommendations.

As you know, H.R. 4169 and 4348 and title V of H.R. 4457 are designed to promote the elimination of discrimination in employment based on race, creed, color or national origin in the performance of contracts or subcontracts to provide the Government with goods or services. They would authorize the President to appoint a commission of 15 members to implement that policy. The Commission would effectuate that program by making recommendations to the President and the Federal contracting agencies for improving the nondiscriminatory provisions of Government contracts and making them more effective. The other duties of the Commission would be to encourage the furtherance of educational programs by nongovernmental groups for the elimination of discrimination in employment and to cooperate with State and local governments and other groups in achieving the purposes of the act. The Commission would be empowered to make investigations, studies and surveys, and to conduct

hearings which are necessary or appropriate in the discharge of those duties.

There is need for such legislative commission because the Federal Government should make every effort to lead the way to eliminate the costly waste of valuable skills and services resulting from unequal access to jobs and to employment training opportunities. For example, discrimination against Negroes, one of the groups which bears the heaviest burden of discrimination in the United States today, denies us the effective use of approximately 10 percent of our labor force. Moreover, such inequality, which results in permitting the achievement of some of our people to depend upon the failure of others whose merit in terms of training or potentiality, respectively, is equal, violates the American ideal of the importance of each individual.

Although concerned primarily with discrimination in employment on Government contracts, because such employment is created in whole or in part by public funds to which contributions are made on a non-discriminatory basis, the proposed legislation should be influential in achieving the elimination of discrimination in employment, generally. A substantial portion of the goods and services produced in this country is covered by contracts or subcontracts with the Federal Government and once a Government contractor has established a non-discriminatory policy for employment on Government contracts he is likely to maintain that same policy as to other employment with the company and to continue it after the work on the Government contract has been completed.

For the reasons stated, I strongly urge the enactment of this proposed legislation.

The CHAIRMAN. It was your father who developed this idea, so-called, in the Fair Employment Practices Committee, isn't that correct?

Mr. ROOSEVELT. That is correct, sir.

The CHAIRMAN. That was a wartime measure?

Mr. ROOSEVELT. Yes, sir.

The CHAIRMAN. And now, it was carried out—the principle was carried out of course in the Committee on Equal Job Opportunity which now is sought to be made into a commission. That is correct, is it not?

Mr. ROOSEVELT. That is correct, sir.

The CHAIRMAN. Any questions?

Mr. TOLL. May I ask the gentleman a question?

This reference to 4169 and 4348 would also apply to title V of 4457 in the McCulloch bill, which contains reference to Commission on Equal Job Opportunity under Government Contracts, would it not?

Mr. ROOSEVELT. Yes, sir.

Mr. TOLL. Are they not all three exactly alike?

Mr. ROOSEVELT. Yes, sir.

Mr. TOLL. Would you go so far as to indicate the position on the elimination of the words, "under Government contracts" so that it would merely be a commission on equal job opportunity, and not limited only to Government contracts?

Mr. ROOSEVELT. Well, sir, I think you are going into an area when you do not specify Government contracts, that will be rather too difficult to enforce.

Mr. TOLL. I mean, then add on the paragraph in section 503(b). Take, for instance, the McCulloch bill, on line 11, where it says, "To provide the Government with goods or services or contracts in interstate commerce." I mean, just limit it to Government contracts and contracts in interstate commerce.

Mr. ROOSEVELT. Well, sir, when you get into all contracts in interstate commerce, I, for one, perfectly frankly, would not know exactly how to enforce that provision.

Mr. TOLL. There is no enforcement provision in these three, as it is, is there? They are strictly educational?

Mr. ROOSEVELT. They are strictly educational and persuasive.

Mr. TOLL. What difference does it make if you said, "interstate commerce?"

Mr. MILLER. Will the gentleman yield?

Mr. TOLL. Yes.

Mr. MILLER. The McCulloch proposal does have an enforcement provision in that when you are dealing with Government contracts, the Government has the right not only to persuade but to cancel the contract, as a matter of fact, with an employer who does not abide or agree to the recommendations of the Government with regard to discrimination, therefore, it is easy for the Government to police its own procurement contracts. But how in heaven's name could the Government police a contract between two private corporations simply dealing in matters of interstate commerce? Isn't that the point?

Mr. ROOSEVELT. That is the point. I, perfectly frankly, would not know how the Government could possibly police contracts between two private manufacturers.

The CHAIRMAN. Has your Commission or committee during its experience or during its life cancelled any Government contract because of violation of the racial principle?

Mr. ROOSEVELT. No, it has not, sir.

The CHAIRMAN. Have you had any complaints in reference to discrimination?

Mr. ROOSEVELT. Yes, sir. We have.

The CHAIRMAN. Did you examine those complaints?

Mr. ROOSEVELT. Yes, sir.

The CHAIRMAN. In what manner did you examine them?

Mr. ROOSEVELT. The complaint procedure, sir, is: The complaints come in to our staff. The next problem is to determine the jurisdiction of which contracting agency has jurisdiction. The complaint is then referred to that agency, that contracting agency, for investigation. The results of the investigation are returned to us—our staff—reviewed by the committee, the subcommittee, then by the full committee, and a determination and a recommendation is made to the contracting agency.

The CHAIRMAN. Well, have you found any discrimination in any of those complaints that was justified?

Mr. ROOSEVELT. Yes, sir. We have.

The CHAIRMAN. And what happened?

Mr. ROOSEVELT. In most instances, the contractor—the employer—has agreed to mend his ways and those cases that are still in the gray area are held for reexamination and for followup by the contracting agency.

The CHAIRMAN. Does your jurisdiction cover subcontracts let out by the contractors who have direct relations with the Government?

Mr. ROOSEVELT. The first tier of subcontracts, yes, sir.

The CHAIRMAN. That is, in other words, there are prime contractors and a subcontractor?

Mr. ROOSEVELT. A subcontractor.

The CHAIRMAN. You don't go beyond the subcontractor?

Mr. ROOSEVELT. We don't go beyond the first tier of the subcontractors. We don't go to the "sub subs."

The CHAIRMAN. How many employees do you have in your committee now?

Mr. ROOSEVELT. Twenty-six, sir, I believe, at the present moment.

The CHAIRMAN. Covering the entire Nation?

Mr. ROOSEVELT. Covering the entire Nation. I might add, though, sir, that the compliance officers of the procurement agencies are the ones who carry out the investigations for our committee.

The CHAIRMAN. Do you get good cooperation from the procurement agencies?

Mr. ROOSEVELT. Yes, sir.

The CHAIRMAN. Are the members of your committee paid?

Mr. ROOSEVELT. The public members and the industry members, yes.

The CHAIRMAN. Yes.

Mr. ROOSEVELT. There is a provision I believe, sir, for per diem of \$50 per day plus travel and subsistence.

The CHAIRMAN. I don't recall—you might refresh my recollection. Are there provisions in the bill that you advocate for a salary of the members of the Commission?

Mr. ROOSEVELT. For the public members, sir, there is a provision for \$50 per diem; travel and subsistence. For those members of the Commission who are from the contracting agencies, there is no provision naturally, for them.

The CHAIRMAN. You have a director at the present time, I suppose? Or an executive officer?

Mr. ROOSEVELT. Yes, sir.

The CHAIRMAN. Is he paid a salary?

Mr. ROOSEVELT. Yes, sir.

The CHAIRMAN. And he has under him 35-odd employees?

Mr. ROOSEVELT. These 25-26 employees. Yes, sir.

The CHAIRMAN. I see.

Any other questions?

Mr. TOLL. Mr. Chairman, I am curious to know whether there is a provision now which permits cancellation of the Government contract.

The CHAIRMAN. You might answer that.

Mr. TOLL. Is that in the present law?

Mr. ROOSEVELT. We have the power to recommend to the contracting agency that the contract be canceled because of the violation of an integral clause in the contract between the Government and the contractor.

The CHAIRMAN. Any other questions?

Mr. MILLER. I think the sense of your testimony was to the effect that to your knowledge, action had not been taken by the committee because persuasion had effectively induced the employers to eliminate or discontinue these practices—these discriminatory practices?

Mr. ROOSEVELT. That is right.

Mr. MILLER: I think it might be interesting, inasmuch as we are getting into questions concerning expanding these provisions into even interstate commerce, to note that on page 3 of your statement, you say that a substantial portion of the goods and services produced in this country, are covered by contracts or subcontracts with the Federal Government and once a Government contractor has established a non-discriminatory policy for employment on Government contracts, he is likely to maintain that same policy as to other employment with the company and to continue it after the work on the Government contract has been completed.

Do you know of some actual instances of that occurring, to your knowledge?

Mr. ROOSEVELT. Well, sir, I can give you one concrete example. A number of years ago when the transit system here in Washington was known as the Capital Transit System, the management did not hire any Negroes for bus drivers or platform operators on the trolleys. A contract existed with the Capital Transit System to transport crippled children to and from their homes to school. As a result of that contract, we were able to persuade the management of the then Capital Transit System to change their policy regarding platform operators and bus drivers. That policy has remained in effect and is now system-wide.

Mr. MILLER. I commend you on a very excellent statement. I have no further questions.

Mr. ROOSEVELT. Thank you, sir.

The CHAIRMAN. I have before me a report, an excerpt of the report of the 5th Annual Report of the Committee, for example. It gives some illustrations of discrimination. ACF Industries, Inc., Erco Division, Riverdale, Md., total employees, 1,741. Negro, 8.

These figures represent the company's first move to integrate employment.

Does that mean that before you went in the picture that it did not even have eight Negroes on their staff?

Mr. ROOSEVELT. That is right, sir.

The CHAIRMAN. And that in the case of the American Telephone and Telegraph Company in Kansas City, Mo., total employees was 1,250; Negro, six. Six Negro women were hired for clerical assignments in 1957. Several have received promotions.

That means after you entered the picture, they at least employed six negroes?

Mr. ROOSEVELT. Yes, sir. The pattern was broken.

The CHAIRMAN. And the employment of Negroes increased since then, do you know?

Mr. ROOSEVELT. That I would have to check with the company to see what the present status is but it indicates that the pattern of employment has been broken and that these jobs which were previously not open to the Negro are now open.

The CHAIRMAN. Do you feel that the sluices are now open or simply a logjam has been broken and there will be more employment on general lines, without discrimination?

Mr. ROOSEVELT. Well, sir, I would not put it quite that way. I would say that at least we started a trickle that may become a river.

The CHAIRMAN. Any further questions?

(None.)

The CHAIRMAN. Thank you very much.

Mr. ROOSEVELT. Thank you very much, gentlemen.

The CHAIRMAN. Our next witness will be Mrs. Paul Blanshard.

STATEMENT OF MRS. PAUL BLANSHARD, EXECUTIVE DIRECTOR OF THE UNITARIAN FELLOWSHIP FOR SOCIAL JUSTICE

Mrs. BLANSHARD. Mr. Chairman and members of the committee, my name is Mrs. Paul Blanshard. I am the executive director of the Unitarian Fellowship for Social Justice. Our organization is the legislative and social action arm of the Unitarians. It is nationwide and includes 60 chapters from Boston to Hawaii—from Detroit to Georgia. The president is J. Ray Shute, former Mayor of Monroe, N.C. Members of the legislative committee are Mrs. A. Powell Davies, Kenneth Birkhead, Mrs. Percival Brundage, Mrs. Paul Douglas, Ted F. Silvey, Mrs. Charles Tobey, Ross A. Weston, David C. Williams, Mrs. Richard L. Neuberger, and Ernest H. Sommerfeld.

I appear today for our organization in support of the Douglas-Javits-Celler bill and to urge its favorable reporting by the committee to the Congress.

It is reasonable to say that integration is proceeding in our public schools, but it is not fair to say that it is proceeding with all deliberate speed. It is therefore of great urgency that the Congress pass this reasonable bill to aid the States and communities to have no second-class citizens in their midst. Second-class citizens are those who for any reason whatsoever are denied rights and privileges granted to other citizens. We cannot afford to have, in our democracy, a people divided against itself with privileged and underprivileged groups.

The committee has been patient and sympathetic in listening to testimony. I do not wish to unduly tax that patience, so I will not go into the various sections of the bill nor will I analyze the other bills that are before the Committee. The expert analysis of the bills has been most ably presented by organizations with which we associate ourselves in the Civil Rights Leadership Conference.

At this time I do wish, however, to introduce a resolution on racial discrimination adopted at the 133d annual meeting of the American Unitarian Association. It is apparent from this resolution why Unitarian organizations and Unitarian ministers are devoting so much of their time to ending segregation. In the massive resistance campaign in Virginia there have been three outstanding Unitarian leaders—our minister in Norfolk who was president of the Save the Schools Committee; our minister in Richmond who is secretary of the Virginia Save the Schools Committee, and our minister in Arlington is well known for his famous open letter to Governor Almond.

Here follows the resolution:

Therefore be it resolved, That the American Unitarian Association urge all people of good will to work unremittingly in all phases of local, State, and national life towards:

1. abolishing all official sanctions and practices which would require racial segregation in public schools, public transportation, public housing, and other publicly supported facilities;
2. eliminating racial restrictions on membership in churches, professional organizations, labor unions, and similar semipublic bodies;

3. eliminating racial discrimination in employment and housing ;
4. promoting mutual understanding between members of different races by all available means, including working together in organizations having members of different races ;
5. encouraging the spread of information about successful action to end or lessen racial discrimination and promote racial understanding: be it further *resolved*, That we call upon our national officials and elected officers to exercise leadership and continuing responsibility for the protection of constitutional rights of all citizens.

I might say, Mr. Chairman, that we support various parts of the various bills that the President has introduced but we feel that it is most unfortunate that they are all separate bills; that it would be much easier for the consideration of the committee if these were incorporated in one bill.

Mr. McCULLOCH. Mr. Chairman, I was reading at the beginning of the witness' statement and it is possible that I misunderstood the witness' statement.

There is a bill—the bill that I introduced—H.R. 4457—which contains seven titles. It contains every recommendation, or contains a provision which would implement every recommendation, made by the President in his Special Message to Congress, under date of February 5, 1959.

Mrs. BLANSHARD. Well, that is fine.

Mr. McCULLOCH. And, Mr. Chairman, I am very happy to know that the witness is interested in that omnibus type of approach. I take it that we might conclude that the witness and her organization supports this seven-point program recommended by the President.

Mrs. BLANSHARD. We would support that but we are extremely unhappy that the title III of the Douglas-Javits bill of last year is not included in that. In the bill this year, it is title VI.

Mr. McCULLOCH. Of course, the witness knows that we passed a bill in 1957 which in substance, contained that provision?

Mrs. BLANSHARD. Indeed.

Mr. McCULLOCH. After a very, very difficult floor fight; and after much persuasion. And I am sure the witness, being so interested in this field, knows what happened to that section of the bill after it was passed by the House. That section, at that time, had the whole-hearted support of the administration including, of course, the Justice Department. It was not the administration's failure or the Department of Justice's failure or the proponents of that title in the house failure to secure enactment of title III. It was a failure—without getting into party politics—of which the witness is well aware.

Mrs. BLANSHARD. Indeed, but what we cannot understand is why even though you were successful in 1957, in the House, why that section has not been included in your bill and also in the President's other proposals.

Mr. McCULLOCH. Well, earlier in these hearings, in effect, I said, that I am not one of those persons who think it serves a useful purpose to march the men, like the King of France, up the hill and march them right down again. I also have in mind the increased authority of certain individuals who opposed the bill that we passed in the House in 1957. I have particularly in mind the Majority Leader of the Senate.

Mr. BLANSHARD. I thought that Senator Carroll yesterday, in his testimony before the Senate committee, had a very good phrase that the President has in a sense, "pulled the rug" from underneath civil rights legislation.

Mr. McCULLOCH. Of course, Mr. Chairman, at the risk of arguing with the witness, I utterly disagreed with the statement of the gentleman before the committee in the Senate yesterday. It was not the President of the United States who pulled the rug out from under the civil rights legislation. It was people not of the President's own party who pulled the rug out. The record is clear on that. It was reviewed at this hearing very ably last week by my distinguished colleague, Mr. Miller of New York.

I would like the record to be repeated for that reason.

Mrs. BLANSHARD. Right.

Mr. McCULLOCH. And to show that the statement made elsewhere yesterday is not quite accurate.

Mrs. BLANSHARD. Well, may I say at this point, this is one of the reasons why we oppose the Johnson bill.

Mr. HOLTZMAN. Mr. Chairman, just like my colleague, I don't want to get into partisan politics but so long as it has been started, it is very difficult for me to understand how any branch of the legislative agency can act on legislation when it is not even recommended by the President of the United States, and while I am not going to construe the language of a member of another body testifying before another body, I am inclined to agree generally that it would be impossible for real leadership to be exerted in the field of civil rights when, because the Senate has done something—and I don't agree that this is a party problem; I think it is much deeper rooted than that—I don't see how any agency can act on civil rights when the President of the United States shows no leadership in the field. I think the gentleman testifying before the Senate, while he may have characterized it, stated the fact, because it is physically impossible, humanly impossible, for us to get any measure of civil rights legislation unless it has the whole hearted support, recommendation and endorsement of the President of the United States.

Mr. MILLER. Will the gentleman yield at that point?

Mr. HOLTZMAN. I will be delighted.

Mr. MILLER. As the gentleman well knows, and I am sure the witness knows, the leader in fact as well as in name of the United States Senate has already introduced legislation in this area. The witness indicated she was familiar with its contents and I presume that the witness would also state she is not as much in sympathy with the Johnson bill, nor does she approve it as heartily as she does the administration's approach.

Mrs. BLANSHARD. That is right.

Mr. MILLER. In other words, if the witness had a choice in this matter limited only to the McCulloch bill or to the Johnson bill, I presume the witness would prefer the McCulloch Bill.

Mrs. BLANSHARD. You are quite right.

Mr. MILLER. And therefore when we talk about real leadership as exerted by the gentleman from Texas in the Senate, I think the witness from a practical standpoint, and from a realistic standpoint, re-

gardless of what Senator Carroll may say in the Senate, when the chips are down and the vote is held in the Senate, I would like to see the witness that evening and have her tell me what she then thinks happened in the Senate and which leadership was exerted and which leadership pulled the rug out from any realistic approach to the problem of civil rights.

Mrs. BLANSHARD. Mr. Chairman, I hope I made it very clear that the leadership we are looking to in the Senate is the leadership of Senator Javits and Senator Douglas.

Mr. MILLER. They are not the Senate leaders.

Mr. McCULLOCH. Mr. Chairman, by reason of the fact that such records are also read by some people and in some instances, by many people, I would not want this time to pass for the record; that of course, in matters of legislation, the first responsibility is in the Congress of the United States, and it is within our power, without recommendation, and even over the Chief Executive's objection to enact legislation which we think is in the best interest of the people of this country.

Mr. HOLTZMAN. I would like to comment on that. I agree with you gentlemen. Nevertheless, the gentleman's bill clearly omits that same section that the administration and the gentleman himself supported in the last Congress and which passed the House. So that, in spite of the general philosophy expressed by the gentleman, the fact remains that when the administration suggests something, the gentleman followed the suggestion and recommendation of the administration and we are here today without the old title III which I said, and I repeat, was the very heart of our legislation.

Mr. McCULLOCH. Mr. Chairman, I would be very happy to have my distinguished colleague from New York offer the amendment in the committee and if it is not successful, there, on the floor of the House, and then I would be very happy if he would persuade some of the members of this Congress who do not feel as he does, of the error of their ways.

Mr. HOLTZMAN. I think the gentleman might add himself to that coterie of gentlemen, and I will be delighted to offer the amendment. I intend to do so.

Mr. MILLER. May I ask one further question?

The CHAIRMAN. Mr. Miller.

Mr. MILLER. I notice you state all through here that you, or the organization which you represent, is opposed to any and all discrimination on account of race.

Mrs. BLANSHARD. Yes.

Mr. MILLER. Does your organization take the same position in regard to discrimination on the grounds of religion?

Mrs. BLANSHARD. I don't know just what you mean by that.

Mr. MILLER. What is that?

Mrs. BLANSHARD. Do you mean are we opposed to any kind of religious discrimination?

Mr. MILLER. Yes.

Mrs. BLANSHARD. Of course we are, completely. We are opposed to any discrimination for any citizens in the United States or anywhere in the world as regards race, religion, creed, color or national origin. We have been very forthright in our statements on that.

The CHAIRMAN. Thank you very much, Mrs. Blanshard, for the very fine statement which you presented.

The next witness is Mr. Robert R. Kiley.

STATEMENT OF ROBERT R. KILEY, PRESIDENT, UNITED STATES NATIONAL STUDENT ASSOCIATION

Mr. KILEY. Mr. Chairman, I should first of all like to thank you and the members of this committee for this opportunity to appear before you on behalf of the United States National Student Association.

Then I would like to suggest that, rather than reading the written statement which you have before you, that I might make a brief summary of those remarks.

The CHAIRMAN. That statement will be introduced in the record as an official statement.

(The statement of Robert R. Kiley is as follows:)

TESTIMONY CONCERNING PROPOSED CIVIL RIGHTS LEGISLATION PREPARED BY ROBERT R. KILEY, PRESIDENT, UNITED STATES NATIONAL STUDENT ASSOCIATION, REGINALD H. GREEN, EDUCATIONAL AFFAIRS VICE PRESIDENT, UNITED STATES NATIONAL STUDENT ASSOCIATION, REPRESENTING THE UNITED STATES NATIONAL STUDENT ASSOCIATION

The United States National Student Association is happy to have this opportunity to express its views concerning the proposals affecting equality of educational opportunity now before the House Judiciary Committee. Each of the yearly USNSA National Student Congresses has viewed the achievement of an educational system totally free from discrimination on the basis of race, religion, creed, or color as a major concern of students. The Association consistently has supported voluntary and legislative proposals designed to further the attainment of such a system, and has worked with students who are seeking it on their own campuses and in their own States.

The United States National Student Association is a confederation of democratically-elected student governing bodies, representing approximately one million two hundred thousand students in 380 colleges and universities in 45 States, the District of Columbia, and the territory of Hawaii. Through its member student governments, the Association represents a majority of the undergraduates registered at four year institutions. Association policy is determined by delegates of the member campuses at the annual National Student Congress and, in the interim between Congresses, by the elected regional representatives of the member schools meeting as the National Executive Committee. Policy is administered by the officers elected at the National Student Congress. Students at the Constitutional Convention at the University of Wisconsin in August, 1947, set forth in the preamble of the constitution their desire to "guarantee to all people because of their inherent dignity as individuals equal rights and possibilities for primary, secondary, and higher education, regardless of sex, race, religion, political belief or economic circumstance." This goal has been a guiding principle in the Association's legislation since its foundation.

In August 1957, the delegates to the Tenth National Student Congress at the University of Michigan adopted the current association policy on desegregation, which states in part:

"Segregation in education by race is incompatible with human equality. It is now also unconstitutional. USNSA, pledged to seeing the elimination of such segregation, urges the swiftest possible integration of the races at all educational levels in all parts of the country. In the face of ethical concepts, legal requirements, and global ramifications there can be no justification for delay in the implementation of the Supreme Court decision. There can be, however, no substitute for understanding and education in areas where political, social, and psychological problems are most acute. The words, "deliberate speed" as used by the United States Supreme Court will necessarily suggest variations in the procedures required for the implementation of the Supreme Court's decision."

While the majority of USNSA's delegates come from Western, Midwestern, and Eastern campuses, many come from the South. These students, too, believe that equality of educational opportunity is vital. At the Eleventh National Student Congress, Southern student leaders of the association's Carolinas-Virginia, Kentucky-Tennessee, Mason-Dixon, and Great Southwest regions declared:

"We are proud of the Southern community. We are, however, painfully aware of the tremendous problem that faces our respective States in the realm of constitutional desegregation of segregated schools.

"Though we are proud of the Southern community's way of life, we do not feel that a system that denies equal opportunity to some Southern citizens is either necessary or desirable as a part of that way of life.

"We further declare that, until this system of enforced inequality of opportunity is finally dissolved, the true qualities of dynamic regional progress which are the true keynotes of the Southern way of life cannot come to fruition."

As these statements will indicate, USNSA realizes that problems involved in desegregation are neither simple nor uniform. We realize that inequities in educational opportunity are not limited to the South. However, we would note that, except in the South, they are not supported by State or local laws and, in general, are not insurmountable by individual effort. The association's policy neither has been made in a vacuum nor without regard to the opinion of Southern students. We do not believe that legislation by itself can ensure good human relations or even equality of educational opportunity, but we do feel that neither educational equality nor good human relations can be secured without an adequate legislative basis.

At this point, it would be well to note that the process of desegregation did not begin with the Supreme Court's decision of March 1954, declaring enforced segregation in the public schools unlawful; nor have the barriers of inequality been pushed back only in the four years since its decision calling for deliberate speed in the implementation of desegregation. In fact, in terms of higher education alone, the precedents for desegregation are considerably older. It is possible to point to progress through education, conciliation, and discussion. Over half of the formerly segregated public institutions of higher education are now desegregated; a substantial number of school districts in border and Southern States have also begun the process of desegregation. However, it must be admitted that progress has been very slow in the past two years and that resistance, not compliance, and delay, not implementation, have been the obvious primary elements in several States.

Those who favor implementation of the Supreme Court's decision as the law of the land, whether personally favoring desegregation or not, have been hindered, not only by State and local legislation, but also by the lack of positive leadership on the part of the Federal Government. The total elimination of title III of the Civil Rights Bill of 1957 and the failure to pass legislation designed to further educational opportunity during 1958 combined with the lack of executive leadership have strengthened the hands of those who would delay or totally prevent desegregation. Worst yet, the failure of either Congress or the Executive to affirm their support of the 1954 decision has given plausibility and increased credence to the charges of those who irresponsibly term the decision in *Brown vs. the Board of Education* as the imposition of the will of nine men on 17 States.

Under these circumstances, we feel it essential that the Congress of the United States take positive action to insure the attainment of complete educational opportunity for every citizen to the extent of his intellectual ability. Such action need not call for immediate change on all levels or in all districts; it can not reasonably do so. It does call for immediate action designed toward implementation not thwarting the decisions of the courts, to provide channels for conciliation and discussion where these will prove profitable, to empower the Department of Justice to take action if conciliation and discussion fail, and to enable the Department of Health, Education, and Welfare to provide both financial and technical assistance to school districts needing them in implementing desegregation plans.

The association recognizes that "groups thrown together unwillingly may well, at first, find unpleasant incidents unavoidable, and unavoidable tensions unpleasant, but it is the teaching of experience and morality that longstanding hostilities and misunderstandings are best dissipated in time by just such integration. The areas to be desegregated contain a wide variety of historic, economic, and ethnic patterns. Within these areas the impact of integration

will vary accordingly." This policy statement by the Tenth National Student Congress is paralleled by the declaration of Southern student leadership at the Eleventh National Student Congress:

"We are personally opposed, and will work to defeat all actions, legislative or otherwise, which in effect frustrate and prevent the obligation and right or otherwise, which in effect frustrate and prevent the obligation and right of local communities to progress toward compliance with the decision of the Supreme Court. We do also stand unalterably opposed to any demagoguery or attempts to use the highly emotional issue of desegregation for personal, social, financial or political gain."

The two statements provide a sound basis for the development of a national policy designed to insure civil rights in the area of education.

We see merit in all three of the major proposals for civil rights legislation before this committee. We think that all embody certain provisions which are important. At the same time, we see certain imperfections or gaps in each measure as it would affect education.

Rather than comment on the proposals of Senator Johnson, the administration, or Senator Douglas and Representative Celler individually, we shall state those provisions which the USNSA feels should be included in a civil rights bill:

1. *Support for the Supreme Court.*—Congress should place itself on record in affirmation of the Supreme Court's 1954 school desegregation decision, in order to end once and for all the claim that desegregation represents the will only of the Federal judiciary, and not a correct interpretation of the Constitution of the United States and the wishes of the people.

2. *Financial and technical assistance to southern communities.*—The Department of Health, Education, and Welfare should be authorized to provide technical assistance and consultants from southern, border, or other States to school districts wishing assistance in planning or implementing desegregation. Where necessary, funds should be available to develop adequate educational standards for the integrated system. This will be especially true in those areas which have not come close to providing adequate educational opportunities for their colored children.

3. *Conciliation.*—Means should be provided whereby public hearings, private conference of community and governmental leaders, and other methods of discussion and conciliation can be facilitated. It must be remembered in any such provisions that while time, method, and details of desegregation in primary, secondary, and higher education can be discussed and compromised, the fact that such desegregation must be achieved with deliberate speed cannot be compromised either on legal or moral grounds.

4. *Enforcement.*—The Department of Justice should be given additional powers to enable it to institute, as well as to participate in, actions designed to secure desegregation. The power might well be limited to cases in which affected individuals cannot easily secure the funds or are not in a position to institute action.

5. *Civil Rights Commission.*—The Civil Rights Commission or some subsequent body should be provided in order to gather and to provide factual information on the progress of desegregation and attainment of equal educational opportunity.

6. *Implementation.*—The Department of Health, Education, and Welfare should be authorized to work with communities in drafting desegregation plans, and in implementing them. It should be given adequate funds, not only for such work on the local level, but also for the convening of more conferences between the staffs and boards of desegregated and nondesegregated schools such as that recently held in Nashville. However, the Department of Health, Education, and Welfare should not be involved in legal action designed to enforce the taking of steps toward desegregation. Such involvement would seriously hamper the Department's effectiveness in subsequent technical and implementation discussions.

We sincerely believe that progress toward educational opportunity in all parts of the United States can only be aided by such legislation. It is necessary to recognize the diversity of situations, not only in deciding on appropriate time patterns or educational levels for initiating desegregation, but also for selecting and following effective channels to insure its accomplishment within a reasonable length of time. Where conciliation and discussion, combined with assistance in the implementation of locally developed plans, will be adequate, these instru-

ments would be possible under such legislation. In such cases, action by the Department of Justice and decisions by the courts would be unnecessary, although their possibility might well restrain those who would otherwise seek to nullify voluntary compliance. Where such voluntary compliance could not be obtained, it would be possible for the Department of Justice to institute action or to support action instituted by individuals. In many cases, it must be recognized, such action will be necessary to insure the institution of desegregation plans.

The United States National Student Association, therefore, wishes to reaffirm its belief in conciliation, legal action, technical assistance, and financial assistance as means through which an affirmation of the determination of the Congress and the people of the United States to achieve educational equality of opportunity for all can and must be implemented.

Mr. KILEY. Mr. Chairman, I think it is well to point out first of all that this statement is not merely the offerings of a few students but that it represents the consensus of the feelings of over 1 million students at almost 400 colleges and universities in this country. These feelings are concretized each summer at the National Student Congress where some 400 delegates, representing the Association's member institutions, gather to formulate the policy which will guide the United States National Student Association through the following year.

From 1947, which is the year in which USNSA was conceived, one of the prime concerns of students has been the inequality of educational opportunity, particularly as it affects higher education. As we have indicated in the written testimony, delegates to the constitutional convention in 1947 declared that part of the USNSA preamble would be a dedication to actions that would guarantee to all people because of their inherent dignity as individuals, equal rights and possibilities for primary, secondary, and higher education, regardless of sex, race, religion, political belief, or economic circumstances.

As the years since 1947 have passed, those active in the USNSA have seen erratic progress toward the elimination of legal barriers to educational opportunity. Unfortunately, these students also have witnessed the unreasonable actions of those who by resorting to violence and intimidation in an attempt to separate black from white abuse the fundamental freedoms of this Republic rather than respecting them and enjoying them as the bases of a functioning democracy. In more recent years, and since the Supreme Court decision of 1954, those of us now active in USNSA have seen the deliberate delay of desegregation by those who resort to legal means, popularly and somewhat glibly referred to as massive resistance. It seems all too possible that barring effective legislative action and in the absence of firm positions on the part of the Executive, certain States will continue to thwart desegregation at every possible point and with every possible legal weapon.

Since the 85th session of the Congress, however, it does seem as if effective congressional action designed to implement desegregation is growing ever more possible. Such legislation, Mr. Chairman, we feel should contain several essential items which concur with the USNSA basic policy statement on desegregation passed at the 10th National Student Congress at the University of Michigan, which reads in part:

Segregation in education by race is incompatible with human equality. It is now also unconstitutional. USNSA, pledged to seeing the elimination of such segregation, urges the swiftest possible integration of the races at all educational levels in all parts of the country. In the face of ethical concepts, legal requirements, and global ramifications there can be no justification for delay in the

implementation of the Supreme Court decision. There can be, however, no substitute for understanding and education in areas where political, social, and psychological problems are most acute. The words, "deliberate speed," as used by the United States Supreme Court will necessarily suggest variations in the procedures required for the implementation of the Supreme Court's decision.

I should now like to emphasize those points which we feel should be incorporated into any Civil Rights Act. These points can be found on pages 6 and 7 of our testimony for the record.

Although we feel there is merit to the civil rights legislation proposed by Senator Johnson, by the administration, and by those supporting the bill offered Senator Douglas and Representative Celler, it is probably evident that our position best approximates the Douglas-Celler proposal. That particular bill seems best to insure desegregation with all "deliberate speed" and yet takes into its view the need for consideration of varying social situations in those areas most directly affected by civil rights legislation.

Before concluding my remarks, Mr. Chairman, I should like to call to your attention two situations relevant to this committee's consideration of civil rights legislation.

The first is that of a statement proposed, debated, and passed by representatives of Southern universities and colleges at the 11th National Student Congress held last August at Ohio Wesleyan University. I should like to read an excerpt from that statement:

We are proud of the Southern community. We are, however, painfully aware of the tremendous problem that faces our respective States in the realm of constitutional desegregation of segregated schools.

Though we are proud of the Southern community's way of life, we do not feel that a system that denies equal opportunity to some Southern citizens is either necessary or desirable as a part of that way of life.

We further declare that, until this system of enforced inequality of opportunity is finally dissolved, the true qualities of dynamic regional progress which are the true keystones of the Southern way of life cannot come to fruition.

We are personally opposed, and will work to defeat all actions, legislative or otherwise, which in effect frustrate and prevent the obligation and right of local communities to progress toward compliance with the decision of the Supreme Court. We do also stand unalterably opposed to any demagoguery or attempts to use the highly emotional issue of desegregation for personal, social, financial, or political gain.

Secondly, Mr. Chairman, I should like to relate to you that—

USNSA in deploring the "massive resistance" policies of certain States attempting to enforce segregation contrary to the spirit and letter of the Constitution of the United States and totally condemns any attempts to eliminate public education, in order to maintain segregation through private schools; and finally, joins USNSA in abhorring the use of violence and intimidation in efforts to defy the law, and urges the Federal Government to take effective action against such actions.

After reading this resolution and presenting arguments for its approval, I was asked by a delegate from Bolivia, "Can we really believe what you say here in view of the lack of affirmative action on the part of your President and your Congress regarding segregation?"

Although we were ready with a reply, a delegate from South Africa, which has its own extreme racial situation with which to contend, intervened by saying, "I can assure the delegate from Bolivia that although the Government of the United States may be hesitant to speak out, the delegate from the United States speaks for the students and the people of the United States."

Although I can assure you, Mr. Chairman, that at the International Student Conference I said no more nor no less than what virtually any other student or citizen would have said in similar circumstances, I now find myself compelled to make a plea that the Congress of the United States speak in no uncertain terms for the people it represents in passing a firm civil rights bill.

I thank you for this opportunity, Mr. Chairman.

The CHAIRMAN. Thank you very much for the statement.

The next meeting of the subcommittee will take place on April 8. (Thereupon, at 11:50 a.m., the hearing was adjourned to reconvene Wednesday, April 8, 1959.)

STATEMENT BY HON. SEYMOUR HALPERN, 4TH DISTRICT OF NEW YORK, ON
LEGISLATION AMENDING THE CIVIL RIGHTS ACT OF 1957

Mr. Chairman, I greatly appreciate the courtesy of this committee in allowing me to present my views on H.R. 2479 and H.R. 2538 the bills which I introduced, along with Congressman Lindsay, amending the Civil Rights Act of 1957. I thank the committee for this opportunity to discuss the merits of these bills.

The genius of the American system lies in its devotion to a "living Constitution." Our national history is the electrifying story of a constant striving towards greater effectuation of our deep-seated tradition of freedom, human dignity and equality before the law.

The growth of freedom in America rests upon our strong adherence to moral concepts which are reflected in our constitutional system as rights and privileges of the individual to be safeguarded under law from incursions of society whether at the State or the Federal level.

America's proud achievement is the growing roster of these rights and privileges possessed by our people as citizens of the United States, and which cannot be abridged or denied to them by Federal or State action.

As each generation in our history has reached maturity, it has struggled with the problems of safeguarding and expanding its rights as individuals and of giving larger meaning to the concept of the free man in society. Through this process which Jefferson described as refreshing the tree of liberty "from time to time with the blood of patriots" our heritage of freedom has deepened.

Our generation is confronted with the problem of protecting our freedoms in a period of deep international crisis. The measure of our worth as a generation which will be determined by the degree to which we assume responsibility for the protection and enhancement of the freedoms which we pass on to our successors.

Forces which imperil the growth of individual freedoms can be found today on both the Federal and the State scenes, but I wish to restrict my remarks to the latter situation.

We are all aware that many of our fellow citizens are being denied by State or local action the full protection of the civil rights which we are derived from the 14th Amendment to the Constitution of the United States. When any of our citizens are unable effectively to prosecute a proceeding on their own behalf for the protection of these rights, the responsibility rests upon all of us, acting through our Federal Government, to provide a means for assuring that equal protection of the laws is extended to the widest possible degree. None of us can be secure in those rights nor can we remain complacent so long as they are denied to any of our citizens.

I respectfully appear before you today to request the enactment of remedial legislation providing for more adequate enforcement of 14th Amendment civil rights.

My bill, H.R. 2479 would substantially restore the provisions of Part III which were stricken from the Civil Rights Act of 1957. It is a remedial amendment relating to protection and enforcement of civil rights. It does not create any new, substantive rights.

The purpose of the bill is to provide more effective legal remedies for those who might be subject to or threatened with the loss of civil rights and who are unable, because of financial inability or other reason, effectively to prosecute a proceeding on their own behalf. Under present law, an individual may bring suit for civil injunction to protect his civil rights, but in many cases such a

person may not be financially able to begin proceedings and the anti-barratry statutes now on the books of some States make it increasingly difficult for those deprived of their rights to seek the help of others to obtain judicial redress.

To remedy this situation, H.R. 2479 would authorize the Attorney General of the United States, upon proper request, to institute a civil action in the name of the United States for preventive relief against any person acting under color of any State or local law, or any one who conspires with such person, to deprive a party of his rights to equal protection of the laws.

The Attorney General would also be empowered, under the terms of the bill, upon written request of the authorities of any State or local subdivision thereof, to institute a civil action for preventive relief against any two or more persons who conspire through violence, threats or otherwise to prevent or hinder such duly constituted authorities for giving or securing to any person his right to equal protection of the laws.

The rights which enactment of this bill would help to protect include the right to attend a nonsegregated public school, to enjoy equal opportunity to attend a public beach, park or other public facility, and to ride on vehicles of public transport. Other vital constitutional rights which the bill would protect include procedural rights such as the right to serve on a jury and to be a litigant and to enjoy unintimidated and uncoerced access to the courts of justice.

Under the terms of the bill, the Federal Government, upon proper request and showing, would be authorized to initiate legal action to enjoin possible deprivations of civil rights before they are committed. This is a far wiser and sounder safeguard than the mere power to punish after such deprivations have occurred, as exist under present law.

The bill does not grant unlicensed authority to the Attorney General. It authorizes him to initiate actions upon proper showing of the inability of individuals to do so and upon proper request therefor. It does, in my opinion, meet the Supreme Court criterion of "all deliberate speed," enabling greater progress to be attained than at the present, but not at a rate where chaos would be created and permanent disruption of whole sections of our society result.

The second bill, H.R. 2538, would amend the Civil Rights Act of 1957 so as to extend the life of the Civil Rights Commission, which is due to expire this year, until January 2, 1961. This proposal should give the commission sufficient time to conduct necessary investigations such as those on voting rights in Alabama and on housing in New York City, and to discharge its responsibilities. H.R. 2538 would enable the commission to continue its vital function until the commencement of the 87th Congress. In an area of such importance to America only shortsightedness would curtail the activities of the commission before it has completed its intended role.

Where minorities in States are unable to enjoy the rights and privileges protected by the United States Constitution, the majority in the nation must provide the means for redressing the balance. H.R. 2479 and H.R. 2538 seek to provide that means through resort to the authority of the Federal Government and by the orderly processes of the workings of law. Their enactment would assure that assistance would be available to those who are most in need.

Through effective use of the reasonable provisions in these bills, our generation, at a period of dark world crisis when threats to individual freedoms are mounting, will provide the means for devising to our heirs a more noble heritage than the one which we received. I respectfully urge the committee to recommend the adoption of these bills.

CIVIL RIGHTS

TUESDAY, APRIL 14, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to call, at 2:10 p.m., in room 346, Old House Office Building, Hon. Emanuel Celler presiding.

Present: Representatives Celler (chairman), Miller, Rodino, Rogers, Holtzman, and Toll.

Also present: Senators Olin D. Johnston and Strom Thurmond, Representatives Mendel Rivers, John J. Riley, W. J. Bryan Dorn, Robert T. Ashmore, and Robert W. Hemphill;

Also present: William R. Foley, general counsel of the subcommittee, and Richard C. Peet, associate counsel.

The CHAIRMAN. The committee will come to order.

We are honored this afternoon with the presence of the distinguished Governor of South Carolina, the Honorable Ernest F. Hollings. As I understand it, one of our distinguished colleagues, a Representative from your State, Governor, wishes to have the proud distinction of offering you to us, and I now call upon our good colleague, Representative Mendel Rivers.

STATEMENT OF HON. L. MENDEL RIVERS, A REPRESENTATIVE IN CONGRESS FROM THE FIRST DISTRICT OF THE STATE OF SOUTH CAROLINA

Mr. RIVERS. Mr. Chairman, you and I agreed last year, and we agreed a while ago, we have the same name, Mr. Chairman. Of course, I don't think that gives me any priority in this committee, because, as I view the membership of this great committee on which there are 21 Democrats, I find that of the 21 there are 8 who live south of the Mason-Dixon line, and that of your committee containing 6 Democrats and not over 3 Representatives, we don't have the privilege of having one member who lives south of the Mason-Dixon line. Consequently, we don't have anybody to advance, protect, or give sympathy to the problems with which we are confronted as a result of this legislation—and it is a bad thing—to which you have given thought and of which you claim to be the paternal ancestor.

Mr. Chairman, our great Governor, a young man, served in the Army of the United States from Casablanca to El Alamein. After beating the Germans in North Africa, he went with Mark Clark from Sicily to Rome and from Rome to Vienna. He fought for the liberty of you and your committee, that you might do this to us.

Mr. Chairman, he is an eloquent young man. He has served as lieutenant governor. He served first as a member of the legislature, then as lieutenant governor, and was elected Governor by the largest vote anybody ever received in the second primary.

Mr. Chairman, he wears seven battle stars for your right to do this to us. He went and did most of his fighting for you as a lieutenant. He came out a captain.

Mr. Chairman, I give to you and to your committee our Governor, and I hope that somewhere down the line 1 or 2 of your members may have a little thought of what we have to say. We recognize that for all intents and purposes your report is made and your decision is made so far as we are concerned, and we feel that insofar as that is concerned, we have been hanged, drawn, and quartered, as Shakespeare would say, in absentia.

But despite that we believe in the philosophy of due process of law, and consequently, we have come here today to witness, though it only be for the record, Mr. Chairman.

I give you our great statesman, our great Governor, one whom you will hear about in the future, Ernest F. Hollings, the Governor of the great State of South Carolina.

The CHAIRMAN. Before we hear from the Governor, I want to say to the gentleman from South Carolina that his statement takes in an awful lot of territory.

Mr. RIVERS. I have got to do it to keep ahead of you, Mr. Chairman.

The CHAIRMAN. But despite what I might, for lack of another term, call "your bit of diatribe," we are going to listen to all and sundry that appear before us without rancor, without emotion, without passion, and with objectivity.

Under those circumstances, Governor, we will be very, very pleased to hear from you.

STATEMENT OF THE HONORABLE ERNEST F. HOLLINGS, GOVERNOR OF SOUTH CAROLINA; ACCOMPANIED BY DANIEL R. McLEOD, ATTORNEY GENERAL OF SOUTH CAROLINA; EDGAR A. BROWN, PRESIDENT PRO TEMPORE OF THE SOUTH CAROLINA SENATE; L. MARION GRESSETTE, CHAIRMAN, SOUTH CAROLINA SENATE JUDICIARY COMMITTEE; ROBERT E. McNAIR, CHAIRMAN, SOUTH CAROLINA HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE; AND THOMAS H. POPE, CHAIRMAN, SOUTH CAROLINA DEMOCRATIC PARTY

Governor HOLLINGS. Mr. Chairman, and distinguished members of this subcommittee, South Carolina is grateful for the opportunity of presenting her views on the proposed civil rights measures before your subcommittee.

It is not our purpose here to dispute the membership of the subcommittee. Certainly we know that you folks are dedicated in doing what you feel is for the best interests of your particular constituency or districts and what is best for the entire United States.

In expressing our gratitude, I want to take note of the fact that I am supported in my stand and statement that I make by other

members of our party from South Carolina. Perhaps it would be well at the very beginning, before I go into our prepared views on these measures, that I present them individually to the committee. They have prepared statements in the interest of time. They are more or less in agreement and might have some elaboration on the overall statement I will make, but I think the committee members should know they are here with me and are ready to answer any questions or present any further views of our State.

We have at first our distinguished attorney general, the Honorable Daniel R. McLeod. Dan has his statement which he will also file with your committee.

The CHAIRMAN. Do you wish the attorney general to be seated with you?

Governor HOLLINGS. It would be a good idea, if you don't mind. I would appreciate it.

We next have a South Carolinian, a gentleman who served more in our State senate than anyone else in the history of South Carolina, over some 32 years, and 38 years in the general assembly. He is the president pro tempore of our senate. He is a national Democratic committeeman from South Carolina, Mr. Democrat himself, the Honorable Edgar A. Brown. We are honored also to have the chairman of our senate judiciary committee, the Honorable L. Marion Gressette of South Carolina.

We are also very pleased to have Mr. R. E. McNair, the chairman of our house judiciary committee in South Carolina.

Also Mr. Thomas H. Pope of Newberry. He appeared, I believe, before your subcommittee last year as the chairman of the legislative committee and executive committee of our South Carolina Bar Association. This year he appears as chairman of the South Carolina Democratic Party.

Mr. MILLER. You realize you are not helping yourself with me by this constant presentation of Democrats.

Governor HOLLINGS. We understand that the Democrats are in charge up here, Mr. Miller, but we understand that your thinking is a lot like ours, and we are happy to be with you.

Mr. Chairman, if you will indulge me, I will be seated and continue.

The CHAIRMAN. I notice also the presence in this chamber, aside from the dignitaries that you announced from your own sovereign State of South Carolina, Senator Johnston, Senator Thurmond, and we have our good colleague on this committee, Representative Ashmore and Representatives Hemphill, Dorn, and Riley. They are all welcome here and we will be very happy for them to participate if they find occasion to in this argument.

Governor, do you care to be interrupted as you go along?

Governor HOLLINGS. As the subcommittee members wish. If they have questions as I go along I will be glad to try to answer them, or at the end of my statement.

The CHAIRMAN. I think it would be better if we waited until the end of the statement. We will get your complete thought and then we will ask questions.

Governor HOLLINGS. I may observe that on behalf of the people of South Carolina, our appearance here, myself and the others, is not for failure of adequate representation on behalf of our congressional delegation either in the Senate or in the House. For House Members

we think we have very distinguished, very able, and competent delegation. They have defended us and presented our views as fully perhaps as we could, but we wanted to emphasize in this appearance that it wasn't a political thing in South Carolina, but almost unanimous thought, belief, and feeling of all of our people in that these bills are unnecessary and that they would, rather than "promote civil rights" would "promote civil discord."

I will allude in a general statement to the message of President Eisenhower when he addressed your House of Representatives on February 5 of this year on the subject of civil rights.

I will not try to go into the various House bills seriatim or by subject matter, but rather make a general statement as to the recommendations as to our position and feeling in South Carolina.

The first words of President Eisenhower in his special message on civil rights to the Congress this year were:

Two principles basic to our system of Government are that the rule of law is supreme, and that every individual regardless of his race, religion, or national origin is entitled to the equal protection of the laws.

That's his quotation.

To his two subjects, of law, on the one hand, and race and religion, on the other, I would first address myself to the latter.

Disraeli stated years ago that "No man will treat with indifference the principle of race. It is the key of history."

Racial differences did not originate in, nor are they confined to, the South. In Nehru's India there is more caste, race and religious prejudice than anywhere in the world. We see today Great Britain having difficulty trying to integrate the Turk with the Greek on the island of Cyprus.

The racial differences of the Israelites and Arabs are threatening the world peace. The Catholic in the Scandinavian countries suffers the same difficulty as the non-Catholic in Spain or in some of our Latin American countries. In this country on the west coast there is the Chinese and Japanese problem. In southwestern United States there is the Mexican problem.

Not long ago a colored school principal in El Paso, Tex., threatened to quit because of the admission to his school of Mexican children. In New York there is the Puerto Rican problem. Last year in Florida a white family was promptly ousted from a colored neighborhood by Negroes who did not desire white neighbors. Billy Graham reports from his travels all over the world that wherever he found a difference in race, he found a problem.

As Governor of South Carolina I represent a State of tolerance and understanding. We have lived in peace and harmony with racial and religious differences for many years. There's no such thing as a "restricted" hotel in South Carolina. The Man of the Year in my home town of Charleston recently was a distinguished Jew by the name of Edward Kronsberg.

To public office another Jew, Solomon Blatt, has been the unanimous choice for years as the Speaker of our House of Representatives. Just last week a Greek boy, Jimmy Leventis, was elected without opposition as President of the Student Body at the University of South Carolina. One of the largest Irish-Catholic societies in South Carolina, the Hibernian, last year had a Protestant president, who is a

Mason. The point I want to make and emphasize is that you can belong to and be president of any club or society in South Carolina regardless of religious affiliation.

For the Negro, South Carolina is a State of opportunity. There are colored leaders with their own insurance companies, bus lines, outstanding Negro members of the legal and medical professions, and in the teaching profession we have more than 7,200 Negro teachers in the school system of our State. This is more than there are in New York, New Jersey, Delaware, Rhode Island, Massachusetts, and Connecticut combined. We don't just speak of opportunity—we give it.

We would like to continue this climate of tolerance and understanding but we cannot if the President and Congress insist on attempting to legislate away racial differences. A distinguished South Carolinian, Bernard Baruch, once stated of prosperity a principle which is true of good race relations. He said:

Prosperity cannot be created by law. Prosperity can be created and can only be created by industry, intelligence, and thrift.

He warned, however, that prosperity could be destroyed by law, and he spoke of the danger of high taxes and Government controls. Good race relations likewise cannot be created by law. Good race relations are created and can only be created by understanding, tolerance and respect. But good race relations can be disturbed by law, and today we have only to look to Little Rock to see its destruction by the so-called "law of the land."

In South Carolina, despite some minor setbacks, the races continue to live in peace and harmony with mutual respect. In our schools peace patrols the school corridors; unlike New York, we do not need armed guards. The Negroes of our State feel as all of us feel—that schools are intended for education and not for integration or social experimentation.

They know that their Governor and general assembly are making a maximum effort to provide for their children the best educational program and the best opportunity to succeed on an individual basis. Let alone we shall continue to provide this opportunity, and as a practical matter, it can only be done in the separate pattern. The only way that children in South Carolina can continue to receive the efficient public school education so necessary for their future success and well being is in conformity with the social patterns and customs ingrained in our way of life.

Legislative attempts to change that pattern will only serve to destroy the well nigh boundless store of good will and understanding now existing among all races and beliefs.

The fact that such mutual respect and good will does exist in South Carolina is proved conclusively by the fact that there has not been a single complaint made to the Civil Rights Commission from any South Carolinian of any race.

As Governor of all the people of South Carolina, the Negroes as well as the white people, I beg of you not to destroy the friendship, education, culture, and opportunity of both races by enacting the proposed civil rights bills pending in this subcommittee.

I would refer next to the President's statement that the rule of law is supreme in our system of government. Immediately comes to mind

the questions "What is the law of the land?" or "What is the supreme law of the land?"

The law of the land is the same today as it was the day this Nation was founded in 1787—that is the Constitution of the United States. As Mr. Charles Warren, eminent historian of the Supreme Court, stated: "However the Court may interpret the provisions of the Constitution, it is still the Constitution which is the law and not the decision of the Court."

Article VI of the Constitution tells us what the supreme law of the land is, and I quote that section:

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

You will note that neither the United States Supreme Court nor their decisions is the supreme law of the land. The law student is taught in early days the difference between the law of the land and the law of the case or decision, and too often in this field do we find the law of the case in the segregation decisions being mistakenly referred to as the law of the land.

As Governor I have sworn before God and my people that I will preserve and defend the constitution of South Carolina and the Constitution of the United States. The constitution of our State has been amended so many times that it is difficult to recognize the original—but it has been amended legally. The Constitution of the United States has been amended illegally by the Supreme Court and today we struggle to recognize the original. This "Noblest document ever penned" has been defiled by careless men of less nobility. Our United States Constitution, like all great things, finds its greatest strength in its permanency—and when that permanency is casually handled, its great strength suffers, and weakens, and perishes.

With clear conscience, and complete conviction, I state to the subcommittee and to the Congress that we are a government of laws and not of whim—that our deep sense of civic responsibility demands a respect for the law—that if the slightest law is to be respected, then the greatest law is to be hallowed.

We recognize that the United States Constitution is an epic document—a great gift and hope to mankind—but when the form and letter and spirit of that Constitution is ignored, a gestation period of chaos erupts into a miscarriage of conscience and propriety. We find a United States Attorney General pledging economic blackmail against our Southland. We see both political parties competing to hurl the greatest insult and defamation at our door. And worse, we find a badly advised Chief Executive assuming command of a marching army, this time not against Berlin, but against Little Rock.

This same commander admonishes the Southern Governors that in taking the oath to support the United States Constitution, they swear allegiance to the Supreme Court and the Court's version of "the law of the land." Or to be specific, he and others insist that the Governors are sworn to integrate the public schools.

The men who assembled and drafted our Constitution and those who have subsequently lawfully amended it made it apparent and definite

that the individual, the State, and the Nation, were all to have rights. As a matter of course the rights must be different in scope since the needs are different in scope.

Note carefully, I have emphasized "in scope"—they are not differing in degree, for the national Government can no more take away a man's life or property without due process of law than can that same individual refuse to serve in our Armed Forces. Equally true is this with regard to the powers of a sovereign state over the individual. While some States allow 18-year-olds to vote, other States forbid it, and the individual citizen of 18 in a forbidding State is not denied equal protection of the laws because he can't vote.

Paramount among these powers reserved to the States, therefore, is that of regulating elections, and equally paramount is the power of providing and regulating public education. Both of these powers remained undisturbed by the 14th amendment. The right to vote without regard to race was not guaranteed until 2 years later by the 15th amendment. It is clear both by law and intent that the 14th amendment did not disturb the fixed boundary between the right of the individual and the power of the State in providing public education. Both the Congress that framed the amendment and the States that ratified it continued to operate separate schools.

When the doctrine of "separate and equal" was sanctioned by the Supreme Court of the United States in 1896, neither Congress nor any court nor any State protested. On the contrary, everyone understood this doctrine as the basis upon which the States could conduct public education. The correctness of this understanding was confirmed repeatedly by the highest State and Federal courts in an unbroken line of decisions. The boundary line remained fixed.

There is today no law and no provision of the Constitution requiring racially integrated schools. Until the Constitution is lawfully amended and the boundary line changed, the South stands on this boundary and on this principle. Until the Constitution is lawfully amended, my refusal to integrate the schools will not conflict with my oath as Governor.

In fact, the contrary is true. I could not conscientiously take an oath to protect and defend the Constitution of the United States and not object to the Supreme Court usurping the amendatory power that constitutionally is vested in three-fourths of the States. To do so would give us a government of men and not of laws. This danger was foreseen by our forefather in the founding days of this Republic, for it was George Washington who stated in his Farewell Address, and I quote:

If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates, but let there be no change by usurpation; for though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed.

Nevertheless, the danger grows and members of the Court claim for it the function, and even the duty, of amending the Constitution at will. In his dissenting opinion in *Green v. United States* in March 1958, Justice Hugo Black, with the concurrence of Chief Justice Earl Warren and Justice William O. Douglas, said this:

Indeed, the Court has a special responsibility where questions of constitutional law are involved to review its decision from time to time and where compelling reasons present themselves to refuse to follow erroneous precedents; otherwise its mistakes in interpreting the Constitution are extremely difficult to alleviate and needlessly so.

In other words, when these justices disagree with earlier and long-standing interpretations of the Constitution, such interpretations are mistakes and should be corrected by the Court, because the amending process is "extremely difficult," and "needlessly so" when the justices can so easily take the place of the constitutional three-fourths of the States.

The Supreme Court of our land was established to decide litigation in the light of past decisions and not in spite of past decisions. It is not the Court's function to lay down "the law of the land" by judicial fiat. It is the Congress under the American system that makes law. Flagrantly, baldly usurping the amendatory power of three-fourths of the States, the justices of the Supreme Court apparently take their gospel from Richard III, whom Shakespeare caused to say:

Strong arms shall be our conscience, swords our law.
March on, join together to pell mell.
If not to Heaven, then hand in hand in Hell.

It is distressing, Mr. Chairman, that the justices don't know where they are trying to force us, but it is even more distressing that they, like Richard, apparently don't care.

As Governor I believe the duty of the Court to be that as expressed by the great Chief Justice Edward Douglass White. His opinion was joined in by Justice John Marshall Harlan, a grandfather of the present justice. Chief Justice White stated:

The fundamental conception of a judicial body is that one hedged about by precedents which are binding on the Court without regard to the personality of its members. Break down this belief in judicial continuity, and let it be felt that on great constitutional questions this Court is to depart from the settled conclusions of its predecessors, and to determine them all according to the mere opinion of those who temporarily fill its bench, and our Constitution will, in my judgment, be bereft of value, and become a most dangerous instrument to the rights and liberties of the people.

That is quoted from the case of *Pollock v. Farmers Loan & Trust Co.* 157 U.S. 429, 652, the dissenting opinion.

We therefore object generally to these civil rights proposals as inappropriate and dangerous approvals by the Congress of the Supreme Court's violation of its duty.

You should have the same objection. What is happening is obvious to all America. The Court has goofed! In their zeal to pioneer in the field of human rights, the justices have disobeyed the law for judges. Rather than being the heroes they thought they would be, they have incurred the wrath of everyone. The American Bar Association, the Association of State Supreme Court Justices, the State's Attorney Generals' Association, the Association of Secretaries of State, and leading jurists have all condemned the Court.

Even the civil rights Commissioners are throwing up their hands in despair. Comes now the President and Attorney General asking the Congress to build into the law a respect for the Court and its disobedience of the law. They want the Congress not as a coequal branch of Government with the Court, but to be its hatchet men.

The justices learn now a simple law of physics. A legal structure, like any other structure, must be built from the foundation up—not from the top down. The people through their Congress is the foundation of law and though the Court has manufactured some supreme stores at the top, they continue to fall around at their feet for want of proper foundation. Like all the king's horses and all the king's men, all of these civil rights proposals and all the Congress can't put Humpty Dumpty together again.

As the State's Governor I specifically object to attempts on part of the Federal Government to take over the police powers of the States. We have law and order in South Carolina and we will maintain law and order in South Carolina. We don't need further Federal authority. We believe not only in States rights but in States responsibilities.

Accordingly, where needed, we have enacted our own State statutes for the proper exercise of the police power in order to give equal protection of all the laws to all our citizens regardless of race. We will not allow persons to take the law into their own hands. We will not have mob violence in our State.

As a member of our house of representatives, I authored the anti-lynch bill which is the law in South Carolina today. This law describes a mob as an assemblage of two or more persons without authority of law for the premeditated purpose of committing an act of violence upon the person of another. It provides strict penalties for mob violence. It is, I am informed, the strictest antilynch measure within the 50 States.

I can tell you as Governor of South Carolina that in any incident giving rise to a threat of mob violence, be it a labor dispute, racial tension or from whatever cause, South Carolina's laws will be enforced and there will be no mob violence. The Federal statute suggested by the Attorney General is unnecessary in South Carolina.

We have sound, fair election laws. Everyone believes in the free exercise of the Negroes' privilege to vote. He exercises this right unhampered. I reiterate there's not a single complaint from South Carolina to your Civil Rights Commission on any voting rights infringement or denial. None of us condones violence, and although we have a malicious injury to property statute, when I took office in January I recommended a strict, clearcut penal provision for those who would take the law unto themselves and deface and damage church and school property. A bill has been introduced by our senate judiciary committee providing for this, and additionally providing for threats of such misconduct, and I and the legislative leaders present can assure you that though it is not needed, we will have such a law in South Carolina within the next few days.

When it comes to civil rights, South Carolina has a civil rights statute. Before I read the State statute, I want to read to you the original Federal civil rights statute so that you can recognize the striking similarity. Section 241 of title 18, U.S.C.A., entitled, "Conspiracy Against Rights of Citizens," is as follows, I quote:

If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

They shall be fined not more than \$5,000 or imprisoned not more than ten years, or both.

Section 16-101 of the 1952 Code of Laws of South Carolina, entitled "Conspiracy Against Civil Rights," reads as follows:

If any two or more persons shall band or conspire together to go in disguise upon the public highway or upon the premises of another with intent to injure, oppress or violate the person or property of any citizen because of his political opinion or his expression or exercise of the same or shall attempt by any means, measures or acts to hinder, prevent or obstruct any citizen in the free exercise and enjoyment of any right or privilege secured to him by the Constitution and laws of the United States or by the constitution and laws of this State such persons shall be guilty of a felony and, on conviction thereof, be fined not less than one hundred nor more than two thousand dollars or be imprisoned not less than six months or more than three years, or both, at the discretion of the court, and shall thereafter be ineligible to hold, and disabled from holding, any office of honor, trust or profit in this State.

Now what is the matter with using either one of these statutes, Mr. Chairman, to deter the use of force or threats of force to obstruct court orders? The point is here that the technical difficulty presumed by the Attorney General in contempt proceedings in persons not being parties to the suit or the court not being in session is obviated.

Court orders or no court orders—if persons interfere with the citizen in the free exercise or enjoyment of a right guaranteed by the United States Constitution, then they can be held under the State or Federal law. I realize the lack of individual applicability, but it is mob violence that the President and Attorney General were after. The truth is that the United States Attorney General doesn't like this statute. He would rather it be kept a secret because it is so easily applicable to labor violence.

Time and again labor strife in this country could have been arrested by proceeding under section 241. If there was some way to measure labor strife and racial strife, there is no question that the former would far outweigh the latter. Labor disorder is of national concern. Racial disorder is of no such concern, but rather politically conceived.

If the Congress were to adjourn for 10 years, the Negro in South Carolina would continue to receive excellent education—his voting rights—his civil rights—his constitutional rights. But, on the other hand, if the Congress fails to meet and in the next 10 years fails to regulate labor violence, we are lost.

The Attorney General should start enforcing the laws he now has at hand and quit trying to play politics with minority and racial groups.

As Governor I intend to enforce the law in South Carolina. Without the Civil Rights Commission and without these so-called civil rights statutes, law enforcement will be an easy task.

Although there has been some deterioration since the Supreme Court decision of 1954, there is still a feeling of respect for the law. There is a revulsion against pressure groups like the NAACP and Ku Klux Klan. The candidate who opposed me in the general election, James W. Cole, was a Klan leader. He is now in jail—not for opposing me, I may add, but for opposing decency.

(Laughter.)

We have the highest respect and the most friendly relations with the Federal Bureau of Investigation.

South Carolinians respect their Federal judges and Federal courts. Grand juries are quick to indict for violations, and the United States Attorney will tell you he has complete cooperation. This will go out of the window with the enactment of the proposed legislation.

The people will feel—and they have a right to feel—that here are unnecessary laws being enacted against a minority South in the nature of civil rights to gain political capital with other minority groups over the Nation. Rather than upholding the Federal Government and the Federal laws, they will feel that they are only political measures and the contest will be who can play the best politics rather than who can maintain law and order.

For myself, rather than dedicating my time to the furtherance of educational progress and industrial development to provide a future for all our people, I will be spending all of my time trying to maintain law and order.

Our State's Attorney General will adhere to the specific bills at hand. I will complete my statement with observations on the recommendations of the President that have prompted the proposed legislation.

I have already commented on the President's first recommendation about prohibiting the use of force to obstruct court orders in desegregation cases. I have stated how the original Civil Rights Act would cover this proposal. I believe the obstruction of justice statutes title 18, section 1501-07 are sufficient to cope with any threat of mob violence.

The bills including the President's first recommendation state in effect that persons who do violence to school court orders shall go free. If the Federal Government needs further power to enforce its order in school cases, then it needs this power in all cases. I have already pointed out that there is more labor dispute than school dispute, and if needed, the Congress in its drive for equality should give equal authority in labor disputes.

The point is that this is special legislation for a special offense against a special section of our Nation, all in the pretended cause of "equal protection of the laws."

Our section of the Nation is known for peace and order. Our public leaders are known for their contribution and dedication to constitutional government and the preservation of all the freedoms for all the people. Anyone familiar with South Carolina and its people will tell you that rather than promoting civil rights these bills if enacted will create civil disorder.

As a governor I am particularly concerned. The police power is vested in the States and not in the national Government, and the primary duty of the State's Chief executive is to administer this police power. Whether Governor Orval Faubus was right or wrong will be argued from now on. Whatever your conclusion, the Attorney General now agrees that troops never should have been used and even Harry Ashmore has reported that desegregation cannot now be had in Little Rock.

Be that as it may, Faubus as a Governor used force to preserve law and order. The people, the real "law of the land" vindicated his judgment by an overwhelming majority at the ballot box. These

are facts. There is no doubt that despite these facts, Brownell would have arrested Faubus had this bill been the law. Governor Shivers of Texas, Governor Clement of Tennessee, and Governor Faubus have all used force to maintain law and order in these school matters. There should never be the enactment of a statute by the Congress that would cause the arrest of a State's chief executive for performing his primary duty.

The creation of this new offense makes a mockery of the double jeopardy provisions of the Fifth Amendment. For a single offense the Federal Government could prosecute under, first, the obstruction of justice statutes, secondly the original Civil Rights Act, and thirdly under this proposal. If the offender were a party to an injunction, then he could be punished yet again, making four Federal trials. That all these punishments are applicable for one offense illustrates both the unnecessary and dangerous features of this proposed legislation.

This proposal in effect makes all Americans second-class citizens, and Communists first class. A Communist can threaten to overthrow the Government but unless this threat is accompanied with an overt act, there is no violation. Here the threat by an American citizen against a court order is punishable even though it is unaccompanied by an overt act. The Congress will not be giving equal protection to its United States citizens.

If you think this is a ridiculous approach, read the proposal carefully. Moreover, words of disagreement can easily be interpreted as threats. No one in the South has agreed with any of the court orders respecting the school decisions. They have so expressed themselves. The enactment of this bill would make criminals of them all.

Commenting on the President's second recommendation to give investigative authority to the FBI in school and church destruction cases, I would reiterate the police power is vested in the States and were it otherwise proper then such authority should be given for all crimes. There has been no indication that any Federal authority is needed in this field. No one has escaped prosecution for such an offense in South Carolina and I know of no flights from such prosecution.

The President stated "State authorities have been diligent in their execution of local laws dealing with these crimes." The Attorney General when he appeared before the Senate committee—I don't know whether he has appeared as yet before your distinguished House subcommittee—stated that "local officials have been diligent in their efforts to apprehend offenders" and at the same time he gave no instances wherein this proposal was necessary.

He didn't cite a single case. This recommendation, therefore, is only an attempt to insult the South. While any type incident of this nature in the South receives national headlines, similar incidents in other sections of the country go unreported. Last October I was in attendance at the United Lutheran Church convention in Dayton, Ohio. On the first evening of our conference we were saddened to hear of the passing of one of the world's greatest church leaders, the late Pope Pius. We were even more shocked that when the news was announced at approximately midnight in Dayton, it was

greeted by a group of people proceeding to the cathedral grounds in the city of Dayton, tarring a beautiful marble statue of the Pope, placing timber sticks at the bottom and setting the likeness ablaze.

There is no such anti-Catholic feeling anywhere in the State of South Carolina. When I came home and told of what had happened, my story was received with disbelief. I have yet to see this incident reported in any national publication. If it had occurred in South Carolina, the U.S. State Department would have been apologizing, and I believe it should have.

As to the President's third recommendation, I reiterate there hasn't been a single complaint of the violation of voting rights to the Civil Rights Commission from South Carolina. Persons in the South have resisted turning over election records to prevent fishing expeditions by the Federal authorities.

When the election records were needed, they were obtained through the grand jury in Alabama. To vest the Attorney General with power over election records is highly dangerous. In addition to the usual historical observations of grand jury indictments and trial by jury being written into our Constitution to protect persons from judicial tyranny, I would like to warn of the political danger that this poses—not so much to the South, because we are a one party State, but but to those States that have vigorous two party systems with close elections.

Attorneys general are often selected more on the basis of their political ability than for their legal ability. Given the power to seize election records at a time of his own choosing, close elections could be controlled from Washington. I think the Attorney General should work through the local grand juries in this respect as they have always done.

I should refer here to the companion measures. In the Senate S. 456 was introduced by Senator Javits and S. 810 was introduced by Senator Douglas. They are similar to the bill introduced by the distinguished chairman. They undertake to give the Attorney General power to institute civil suits in behalf of any person who is denied equal protection of the laws on account of race, religion, or national origin.

These bills again are concerned with select offenses for select groups. Done in the name of equality, they violate equality. That they are designed especially is best evidenced by the Attorney General's response to the suggestion of Senator Ervin of South Carolina that a statute be expanded to allow the institution of suits for the denial of equal protection of the law on account of religion.

Mr. Rogers' response in opposing such a suggestion stated that it would not be wise, and he said this:

I think it would require the Government to become involved in a great deal of litigation which might very well harden the resistance that is already apparent in many areas to the point where it would be impossible to make any progress in the future.

We are dangerously near that point in South Carolina due to the Supreme Court school decisions, and this bill would have exactly the effect that Mr. Rogers fears in the religious field. To use Mr. Rogers' words, this bill would "curtail progress, rather than advance the progress in this field."

The fourth and fifth recommendations dealing with Federal aid of authority in public schools is a typical camel's nose under the tent that probes continuously for those wishing to nationalize education. It is surprising that we have allowed the Federal Government to advance as far in this field as having a Department of Education.

The people of this country will never stand for Federal schooling. Even Chief Justice Earl Warren has agreed, as stated in *Brown v. The Board of Education*, 347 U.S. 483; 98 Law Ed. 873: "Today education is perhaps the most important function of State and local governments."

Two years ago the special presidential commission studying the so-called national emergency in public schooling found that in only 13 States in America is a child not being denied an education for the lack of a classroom or a schoolteacher. Low per capita income South Carolina is 1 of these 13. We don't need Federal aid. We don't want Federal aid because we don't want Federal controls.

To give Federal authority over public schools beyond a military reservation or other Federal property is unthinkable. That these steps are only a foot in the door is best evidenced by the President's sixth recommendation that the Committee on Government Contracts be resolved into a Commission on Government Contracts. What was a committee is now to be a commission. It is the same national FEPC proposal that has been rejected as an unconstitutional assumption of State sovereignty and power by this Congress on numerous occasions.

As to the President's final proposal to extend the life of the Commission, South Carolina reiterates her position of opposition to the original institution of this Commission. A continuation would only mean extended uselessness and increased discord.

Whether the Commission has had time enough to do what certain politicians desired is probably doubtful, but certainly we have had enough time to determine the necessity of this Commission. This Commission was spawned by the flimsy testimony of news reports, hearsay, and political talk; \$750,000 was appropriated for the expected tremendous volume of violations of civil liberties.

There has been no case in South Carolina. The case in Alabama has been dismissed. The Commission has a doubtful case in Georgia, and if we are interested in the rights and freedom of persons, there are far more incidents of rape, murder, and bank robbery in this country and a commission for these offenses would be more logical even though equally unwarranted.

The real truth, Mr. Chairman, is that thinking leaders of both races in the South realize that integration is unwise, impractical, and will never be accomplished.

The South has stood the acid test. With all the opinions and predictions of psychologists, sociologists, and special-interest groups, despite the heavy pressure of the national leadership of both political parties, despite the millions of dollars expended for airborne troops, hearings, court proceedings, and what have you, only 165 colored children have been integrated in the schools of 10 States in the last 5 years.

In Arkansas there have been 78; North Carolina 13; Tennessee 44; Virginia 30. In the other six Southern States, South Carolina, Georgia, Florida, Alabama, Mississippi, and Louisiana, there has been no integration. The Southern Negro knows he is getting the best educa-

tion and the best opportunity on an individual basis. We are denying him nothing on account of his race and we will give him nothing on account of his race.

Lopsided internationalists may talk of the shame that racial incidents have visited upon these United States with the nations of the world. Mr. Chairman, these nations know and understand racial differences. Rather than alarm for these incidents, the people of Europe were far more shocked at the striking similarity between Eisenhower and his use of troops to maintain law and order in Little Rock and Khrushchev's use of troops to maintain law and order in Hungary.

So-called civil rights legislation such as you have before you will drive deeply the shaft of division into the national body. Such bills would hurt our domestic and international efforts. They will hurt everyone, the white and the Negro alike.

They will promote civil discord rather than civil rights. Law enforcement will depreciate as in the days of prohibition with local law officers opposing the Federal officers. They will make it extremely difficult for Governors of our States to maintain law and order. They will be a grievous disservice to our beloved America.

Mr. Chairman and the members of the committee, I thank you for your kind attention and I would be glad to try to attempt to answer any questions you may have about my statement, or perhaps at this time if any members who have joined with me in the trip would like to make a statement, or file prepared statements, it would probably be expeditious to the committee.

The CHAIRMAN. I think the members would like to interrogate you at this point.

Governor, I want at the outset to say that I admire your sincerity and forthrightness in preparing and presenting that statement. I find it a very compelling statement, a result of considerable erudition and painstaking effort and patience.

You will forgive me, however, if I indicate that with all of it I do not agree, and therefore, I would like to, with the other members of the committee, ask you a few questions.

Governor HOLLINGS. Yes, sir, thank you.

The CHAIRMAN. On the first page of your statement you quote the famous statesman of England, Disraeli. You attribute to him "No man will treat with indifference the principle of race. It is the key of history."

I want to counter it by saying that Jefferson in his Declaration of Independence said that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

You mentioned that in India "There is more caste, race, and religious prejudice than anywhere in the world."

I have been to India, Governor, and I would say that there is considerable prejudice in India, but India has laws. They have placed laws on their statute books which banish with severe sanctions any manifestation of prejudice or intolerance because of race, color, or creed.

Even the Untouchables, the Haridans, who for centuries were considered to be beneath everyone, they were given the most menial tasks of cleaning out latrines and toilets, and so forth, they have been given complete freedom the same as any other Indian. Anyone treating a

Haridan or any Untouchable in any way but an unprejudiced manner suffers very severe penalties.

So India has on its books, despite the fact that there may be prejudice, laws against intolerance. All that we are seeking to do is place on the books some sort of law that would interdict some of this intolerance we have.

You speak of the Turk integrating the Greek, or the lack of integration, but it is interesting to note that after considerable conference and deliberation that both the Turks and the Greeks at the solicitation of Great Britain were enabled to sit at the conference table and rationalize their differences and now peace has descended on the Island of Cyprus.

You speak of the racial differences of the Israelites and the Arabs. I have been over in that land, too. There are no racial differences there because both the Arabs and the Israelites, the Semites, are of the same race. The only differences that exist between those two people are political differences, not racial differences.

Now beyond that, I would say in general, when you speak of the difficulties the Catholics may have in Scandinavian countries and non-Catholics may have in Spain, the mere fact that you point out that there are prejudices doesn't justify prejudice. The mere fact that those prejudices may exist in other lands wouldn't justify the prejudice here.

Even in those lands a man could change his faith. He could change from Catholicism to Protestantism, or vice versa, he can change his political status, he can change his abode, he can change his political views, but he can't change his skin.

The gravamen of the difficulty here is that since a man cannot change his skin we wonder whether or not these heavy penalties should be applied to him because of something quite beyond his control, something Providence visited upon him.

Now you also speak of the Puerto Rican problem in New York, with which naturally I am very much familiar. I will say this, that problem in New York with reference to Puerto Ricans is no different than the problem that existed in New York many years ago when the Germans first came to New York.

They were called by the English the Beer Germans, and they were looked upon with askance by the so-called first Americans. Then after the Germans, when they had the opportunities for education and the opportunities for jobs, because integrated with the economy of New York, they in turn looked askance upon the dirty Irish that came in.

Then the Irish, after they became integrated with the Germans and the Englishmen, they looked upon the Italians that came in. They were unlike them. Sometimes they spoke a different language. Their mores and customs were different. They all united to call the Italians "dagoes." They gave them menial tasks. Finally the Italians united with all the others to call the Jews that came streaming in after the massacres "the dirty kikes."

Now, strangely enough, the Italians and all the rest look askance upon the Puerto Ricans. But I venture the assertion that within one or two generations, these Puerto Ricans, if given the school opportunities they are receiving today in New York, and given the job

opportunities which they are gradually receiving, the second-generation Puerto Ricans will be no different than all those prior races that had streamed in to New York and finally became integrated.

We look to the day when the Puerto Ricans will be honored and respected citizens of the great city of New York.

It must be remembered, too, that as I read your statement you fail to take into consideration that law is a policy of containment so that the passions, the prejudices of man, being what he is, shall not spill over to infect the whole body politic.

Beyond that, I notice with a great deal of commendation that your state has honored a Jew, Edward Kronsberg, as the Man of the Year. You have given great distinguishment to a Greek, to an Irish Catholic, to a Mason. This is all to the great credit of your State and nobody could yield to me in my admiration of the State of South Carolina.

But that doesn't mean that we should be blind to any of the defects that exist there. Even a diamond has its spots and has its flaws. The sun has its spots.

But I will say that you have been tolerant, you have been quite tolerant there of all of these different people, with one exception; you are not tolerant of skin. Just because a man's pigmentation might be different, you have not been as tolerant of him as you have been creditably tolerant of all the others.

You speak there of your colored leaders with their own insurance companies. I notice you use the word "own." In other words, those insurance companies are more or less set apart from other insurance companies. They are insurance companies by and for and of, I presume, Negroes.

You speak of the great numbers of Negro members who are lawyers and doctors. That is to the great credit of South Carolina. Nobody should take an inch of that credit away from the great State of South Carolina. But I might ask, are those members, those Negro members of the bar, are they members in good standing with their white colleagues in the bar associations there?

Are those doctors members in good standing with their white brethren in the medical associations? Is that the situation?

Governor HOLLINGS. Yes, sir.

Mr. Chairman, you have covered so many broad subjects, but you make my point more eloquent than I can make it, and that is this: That you talk, for example, of the differences that have been reconciled and now dissipated and no longer exist between Germans, say, and Catholics and Irish and Italians and others in New York. Those differences have all gone not on account of laws, but on account of the point I make—tolerance and understanding.

We do have, let us say, some defect in South Carolina, as they may have in some of the other States. We don't say we are perfect. But the differences of separation are not on account of laws. That has been the greatest misconception of those who don't live in the South and don't know anything about it, to say that the law has forced them into this situation. It is a voluntary thing. There are no laws on the books requiring separate schools. There has not been a single colored child since the 1954 decision of the United States Supreme Court who has petitioned for admission into a white school in South Carolina.

I might say to you, sir, that the separation of living habits into the different ways of life and different societies is only a natural, understandable desire on behalf of the Negroes of South Carolina and the white people. That is the way they want to live. They receive a better education and they receive a greater opportunity.

I differ with your point that we are not tolerant. My point is that we are. I think that the Negro has made more advancement in the white South than anywhere else in the world, as history will show, in the short period of let us say 50 to 100 years. I believe we are tolerant. I believe that those advancements have come about on an individual basis, through proof of their own worth, and let alone, they will continue to advance—but try “like laws”—you didn’t have laws in New York that so much for an Irishman or so much for a German or so much for an Italian when they landed on the docks.

You don’t need laws to solve your Puerto Rican problem. My point is, as you so eloquently make for me: Let these things alone and they will reconcile themselves, but pass the laws and you will irritate them, you will cause more discord, you will cause less tolerance, you will compound the situation that would not have existed.

I could quote the Attorney General when he appeared before the Senate committee, and this is what he had to say:

If things were allowed to remain—
this is what Mr. Rogers said:

If things were allowed to remain as they were, there would, of course, be no tensions, no problems, and few incidents.

So I say to you to allow them to remain that way is to try to get this out of the field of law. You can’t legislate that I am going to like you and you are going to like me, although we are finding out we are getting along all right. It is not because the law says we are going to like each other. You just can’t do it. It is unnatural. When you pass these laws you really set the Negro back down in South Carolina and in the entire white South.

The CHAIRMAN. Well, of course you want to keep what we call your sacred way of life and there you have the separate but equal doctrine. If you say that there has been no difficulty in that Negroes haven’t asked to go to white schools, or that is the import of part of your statement, why have you changed the school laws of your State?

I am reading from a statistical summary, State by State, of segregation and desegregation activities affecting southern schools from 1954 to the present, together with the pertinent data on the enrollments, teacher pay, et cetera, published by the Southern Reporting Service, and on page 24, I read the following which indicates very drastic changes in your school law:

In November 1952, South Carolina voters approved a constitutional amendment repealing that section of the State’s basic law requiring the General Assembly to provide for a “liberal system of free public schools for all children between the ages of 6 and 21.” The amendment was given final legislative endorsement in March of 1954.

Beyond that, in May 1955, the legislature adopted a number of proposals, among them the following:

- (1) Repeals the compulsory school attendance laws.
- (2) Establishes a system of “visiting teachers” in lieu of the attendance teachers who operated under the compulsory attendance law, such teachers charged with the responsibility of using reason, influence, and persuasion to obtain school attendance.

(3) Spells out the authority of local school trustees to manage and control local educational interests "with the exclusive authority to operate or not to operate any public schools" and to "transfer any pupils from one school to another so as to promote the best interests of education and to determine the school within its district in which the pupil shall enroll."

* * * Appropriations of State aid for teachers' salaries and all other school districts, county, and State appropriations for the operation of the public school system shall cease and become inoperative for any school from which, for any school to which any pupil may transfer pursuant to, or in consequence of, an order of any court, from the time that the pupil shall attend a school other than the school to which he was assigned before the issuance of such a court order.

In other words, you give to local school boards or local school district commissioners the authority to close the public schools down if they see fit. If you close the public schools down, won't you to that degree impoverish a great segment of your population? Won't you cause economic detriment to the great State of South Carolina? Won't you likewise create a favored class of youths, those who can afford to go to private schools?

Now if as you say colored folks do not want to go to white schools, why did you go to all of the trouble of passing these kind of statutes?

Governor HOLLINGS. There are two groups of statutes, Mr. Chairman. The first group were repealed. They were initially on the books as to what was natural and the persons desire and the desire and wishes were before the law. That was our point, that when the United States Supreme Court handed down its May 17, 1954 decision, separate and equal school facilities were not as a result of the law, but as a result of what was voluntarily desired. Therefore we repealed the law and proved to the country the acid test that we have without law, the separate schools that will refute the arguments with all of those unacquainted with either education or the southern way of life.

Now as to the other law, in the interest of good education for all the races, that is within the police powers of the State. It has been found constitutional in the State of Alabama, upheld by a United States Supreme Court. Those trustees are interested in education.

That is the answer to that question.

The CHAIRMAN. When I spoke of the Negro doctors and Negro lawyers—

Governor HOLLINGS. Yes, sir.

The CHAIRMAN. Are they admitted to white bar associations and white medical associations?

Governor HOLLINGS. I don't know whether they actually are members. I know they are in good standing definitely. I have tried cases with them and I have tried cases against Negro lawyers. They have the respect of the court, and you won't find any of them participating generally in any kind of proceeding up here. I have talked to quite a few of them. They are in good standing. They are well respected. They represent their groups. They are happy. They believe that their separate pattern way of life is the best for them as well as for the white people.

The CHAIRMAN. You said on page 2:

We would like to continue this climate of tolerance and understanding, but we cannot if the President and Congress insist on attempting to legislate away racial differences.

As I see it, Governor, I certainly, and I am sure my colleagues on this committee, do not wish to legislate away racial differences. What we seek to do by this legislation or some legislation is to legislate equal opportunity. Now you may place that interpretation on it, but we think that we are trying to place all people more or less on a parity when it comes to education and when it comes to political rights.

Governor HOLLINGS. We believe in equal opportunity, and my point is that we give it. The way to give it is different in South Carolina evidently than in New York.

The CHAIRMAN. Do you think that separate but equal is equal rights?

Governor HOLLINGS. That is what all the great Supreme Court Justices—Chief Justice Taft, Brandeis, Cardozo, Oliver Wendell Holmes—all great Americans said that separate and equal school facilities were constitutional and I believe moral and I believe equal and I believe they felt so.

The CHAIRMAN. I will come to that phase of your speech in a moment.

Now you speak of peace patrols in school corridors at the bottom of page 2. That is true. Your statement is accurate there. We have a juvenile delinquency problem in New York. We have good white people and we have bad white people. We have good colored people and we have bad colored people. We are trying to cure that. We are not trying to cure any prejudice by having these police patrols in our schools. They are there to prevent juvenile delinquency. I think you ought to realize that. It isn't a question of prejudice or bigotry or tolerance or anything of that sort at all. That is why we have these police in our schools in New York.

Governor HOLLINGS. Mr. Chairman, I wouldn't try to tell you about New York, sir, because you are familiar with it, but whether racial differences promote the discord or juvenile delinquency or if juvenile delinquency brings about the other, or whether there is any relation, I am not a psychologist and I wouldn't try to ask and answer the question at the same time. We in our section of the country think that you can't give good education with armed guards. We don't have juvenile delinquency because everybody—I will say that every State has a certain amount of it—but it hasn't broken out in boys warfare and gangs like in other sections of the country because we haven't by law forced people together that naturally would not mingle.

The CHAIRMAN. We have these problems and we are ashamed of them. We don't like it. We try to obliterate them. But we know it is not brought about by any kind of segregation. It is brought about by other causes and we are trying to remove those causes.

Incidentally, the police are no longer in our schools. That was only for a short period.

You also state on page 3, Governor, toward the bottom:

As Mr. Charles Warren, eminent historian of the Supreme Court, stated: "However the Court may interpret the provisions of the Constitution, it is still the Constitution which is the law and not the decision of the Court."

Now you will agree, will you not, that you must have a medium like a court interpreting the laws. Isn't that correct?

Governor HOLLINGS. Definitely.

The CHAIRMAN. Now how can you separate say the Constitution from this interpretation? You can't do that any more than you can

separate the tongue from your mouth or no more than you can separate the root from the tree. You have to have some medium to interpret the laws. Now that is what we have here. We have the medium which you recognize which has interpreted the law.

Governor HOLLINGS. Sir, interpreting the law is different than amending the law, and the Constitution itself provides a way and means of amendment. Though there may be some difference or difficulty in separating as you say the tongue from the mouth under this generality of due process or generality of equal protection we know we start with the law, we read it word for word, but we begin with the Constitution, we go to its regularly established and adopted amendments. We look at the 14th amendment and we look at the Court and its interpretation and then after some 60 or 80 decisions and everything else, in spite of its interpretations, in spite of the law remaining the same as it was the day the 14th amendment was adopted, we find a completely different Court giving a completely new interpretation.

It is obvious to the American Bar Association and everyone else that what we have done rather than interpret them is to try to amend or change the original interpretation. It is so patently obvious that it needs no further argument. It is not a matter of separating the tongue from the mouth but rather separating interpretations from amendments. It was definitely a judicial attempted amendment in May of 1954.

The CHAIRMAN. This reminds me of two fellows after carousing. They have a bottle of whiskey which they are holding in the air. One fellow says that the bottle is half full. The other fellow says the bottle is half empty. They just see the bottle differently. So I look at the problem differently than you do. I don't see how the Supreme Court sought to change or alter the 14th amendment. The 14th amendment remains the same, the same as it was before the *Brown* decision. They interpreted the 14th amendment. If you are dissatisfied with the interpretation that the Supreme Court placed upon the 14th amendment, then it is incumbent upon you to indulge in the legal processes of seeking to amend the 14th amendment rather than to attack the court that render the interpretation. Every time a court interprets the Constitution in the way that we disfavor, and we say we don't care about it, we don't want it, we are not going to recognize it, if that is carried too far we would have chaos. Suppose you and I have a lawsuit. Suppose it goes to the Supreme Court and the decision is to the effect that I have to pay you \$10,000. That is how they interpreted the contract that came to the Supreme Court. I say "I am not going to pay that," and I don't recognize that decision. Have I the right to do that after the court has rendered the decision? Have I a right to say I am not going to recognize the decision, I want no truck with it? I must recognize that decision.

It strikes me that the people of the country must recognize the work of the medium that they set up which was set up by the Constitution, namely, the Supreme Court, to make these interpretations.

Governor HOLLINGS. Mr. Chairman, the chaos started with the usurpation by the Court itself in 1954. The interpretation was there and held by many eminent jurists.

Now your proposition is, you talk about whether I owe you money or not in a given case. Let us say under the due process, the Supreme Court would agree tomorrow in a decision that the Congress shall

operate the public schools of America under their interpretation of due process because the Congress would be the only one.

Well, there is no authority for education whatsoever in our United States Constitution. When Sol Bloom of New York was asked back in 1935 where in the Constitution is there mention of education, he answered, "There is none, education is a matter reserved for the States."

Now under your interpretation, or the court's interpretation, if they could come in now, rather than giving it to the States, and just say the Congress shall operate the public schools, it is obvious to everyone that what the court has done is try to amend the Constitution.

And when you get nine justices setting themselves up supremely and saying, "We are the law, rather than the Constitution being the law," that is where the chaos and judicial oligarchy begins, that is where the real danger is, and not when we who believe in constitutional government and law object to it, and object to it strongly and try to maintain it.

THE CHAIRMAN. You seem to imply that the Brown decision came on suddenly. We were not aware of what the Supreme Court was going to decide. But I can assure you that from a perusal of the precedents that appeared before the Brown decision, that that Brown decision, if I may use the term borrowed from Greek mythology, did not spring forth suddenly like Mercury, coming full bloom from the brow of Jupiter.

There were many, many decisions which indicated the coming of the Brown decision. I am going to come to that momentarily, but before that, you quoted Sol Bloom—he was a very dear friend of mine and I served with him—that education was not mentioned in the Constitution and was within the reserve power of the States.

But I must remind you that the 14th amendment is a curb upon the reserve powers, a deliberate curb, a deliberate restraint upon the reserve powers. You cannot exercise the reserve powers in contradistinction to the words of the 14th amendment.

Governor HOLLINGS. Mr. Chairman, I would just remark on your first observation that what we are interested in, you, your subcommittee and us who are appearing, is in the fundamental law and constitutional government, and whether the usurpation is held by some minor decisions is contradictory, or what have you, or whether it comes down all of a sudden, usurpation is usurpation.

The amendatory process is prescribed in the Constitution, and it is no sanction or favor to the judicial oligarchy, and there is really no decision prior to the Brown case that says anything in the world about the 14th amendment requiring other than separate and equal school facilities.

THE CHAIRMAN. I will come to that in a minute, if you will just be patient.

I just want to point out one other factor which to my mind is important. You very properly emphasize the fact that the decision, or the doctrine, "separate and equal," which was sanctioned by the Supreme Court way back in 1896, that is, 60 to 63 years ago—well that is true; that is a precedent, and the Supreme Court would necessarily follow that under the ordinary rule.

But that presumes that the Constitution is sort of a dead document. And as a matter of fact, very frequently Judge Holmes,

and numerous of the judges of the present Bench, have indicated that the Constitution is a growing, vibrant, dynamic document, and that it must respond to changing conditions, new technology, and greater insight, and that it may require new interpretations.

Now there are many cases, as you know, Governor, of decisions that have been changed by the Supreme Court itself. I remember the famous Southeastern Underwriters case which held that insurance, ordinary insurance, was interstate commerce, 30 years before the decision to the effect that insurance was not interstate commerce. But as insurance changed, its character changed, therefore the Supreme Court recognized the change and reversed itself.

The Supreme Court has reversed itself in the child labor cases. It reversed itself in the AAA cases. And I must call your attention to a very significant phrase that was used by Gen. Robert E. Lee to General Beauregard during the Civil War, and he said as follows:

True patriotism sometimes requires men to act exactly contrary at one period to that which they do at another period.

Governor HOLLINGS. That is true patriotism.

The CHAIRMAN. I beg your pardon?

Governor HOLLINGS. That is not true law.

The CHAIRMAN. Well I am only referring to the fact, here at least, as to patriotism, that he may change his mind, and the Supreme Court I think has a right to change its mind if the conditions are such as to demand a change.

Now let's see what the cases were that seemed to foretell the Brown decision. In the Supreme Court decision itself we have the following, on page 490:

In the first cases in this Court construing the 14th amendment, decided shortly after its adoption, the Court interpreted it as proscribing all State-imposed discriminations against the Negroes. The doctrine of "separate but equal" did not make its appearance in this Court until 1896 in the case of *Plessy v. Ferguson*, *supra*, involving not education but transportation. American courts have since labored with the doctrine for over half a century. In this Court, there have been six cases involving the "separate but equal" doctrine in the field of public education.

Beyond that, I am now reading from a very interesting book called "The Supreme Court in the Modern Role" by Prof. Carl Brent Swisher. He says the following on page 155:

As late as 1939, when in *Missouri ex rel. Gaines v. Canada* the court outlawed discrimination in law school education, Justice McReynolds, joined by Justice Butler, presented in significant language the resulting alternatives with which the state seemed to him now to be faced: "She may abandon her law school and thereby disadvantage her white citizens without improving petitioner's opportunities for legal instruction; or she may break down the settled practice concerning separate schools and thereby, as indicated by experience, indemnify both races."

This author goes on to say:

In the next 9 years, covering World War II with its intermingling of races in employment and in the Armed Services, brought great changes in public attitudes and in the personnel of the Supreme Court. No member of the court now believed that desegregation would "damuify" both races. Yet some or all members sensed the bitterness of the attack likely to be directed at the court if the "separate but equal" doctrine of "*Plessy v. Ferguson*" were abandoned and segregation found to deny equal protection of the laws. Among justices inclined to widespread expression of judicial opinion on important issues, it is as

if an advanced agreement to act unanimously on segregation matters had been entered into to give a beleaguered court the full advantage of a united front. By good fortune, or by virtue of behind-the-scenes guidance, segregation cases came before the court in such a way as to permit it to lead up gradually to the ultimate issue.

When in 1948 in *Sipuel v. University of Oklahoma* the court passed on Oklahoma's exclusion of a Negro from its law school, it used but some 200 words of a per curiam opinion to hold that the case was governed by the Missouri decision.

I have just quoted that decision.

When in that same year in *Shelley v. Kraemer* the court held that judicial enforcement of restrictive covenants with regard to sale of property to Negroes likewise violated the equal protection clause, the Justices were similarly reticent, speaking exclusively through the opinion of Chief Justice Vinson.

In other cases in the field of segregation the justices continued to speak only through the Chief Justice. It was Chief Justice Vinson who in 1950⁴ in *Molaurin v. Oklahoma State Regents* announced that equal protection was denied to Negroes in a State university when they were segregated within classrooms, libraries, and cafeterias. On the same day he spoke for a unanimous and otherwise silent Court in *Sweatt v. Painter* holding that a Negro was denied equal protection of the laws by being excluded from the University of Texas Law School, even though the State provided a separate law school for the benefit of Negroes. Counsel in this case had argued not only that there was inequality between the two law schools but that discrimination was inevitable under the separate but equal formula. * * * Finding actual inequality between the two law schools, the Court noted a reservation of judgement as to whether the "separate but equal" doctrine was still in good standing. This reservation stood as an indirect invitation to a challenge of the doctrine in other cases. * * * As we all know, the group of cases headed officially by the Brown case was argued before the Supreme Court at great length in December 1952. At the end of the term the court returned the case to the docket for reargument, asking for discussion of a series of questions about the intent of the framers of the 14th amendment concerning segregation in the schools, the intent of the Congress that submitted the amendment, the intent of the ratifying legislatures and conventions, the power of Congress or the judiciary under the amendment to interfere with segregation, whatever the original intent had been, and the nature of the decree to be issued if the judiciary was to outlaw segregation. The question showed the court where the constitution-making elements of its past and of the difficulty of issuing enforceable decrees in effect forbidding a negative, that is, forbidding States to refrain from educating colored and white children in the same schools. Following the death of Chief Justice Vinson, the reargument took place in December 1953, with Chief Justice Warren at the helm. The unanimous decision, voiced again through the Chief Justice, though through a different man, came in May 1954, with restoration of the cases to the docket for still further argument about the kind of decree to be entered. It is with this basic decision in 1954 that we are here primarily concerned. * * *

So I will say to you, my good friend, that there were many indications by the Court that there was a tendency, gradually you might say, that was bound to end up in just a decision like the one that was announced in the Brown segregation case.

Governor HOLLINGS. Mr. Chairman, the fundamental law in the Constitution does not come about by tendencies. That is a dangerous thing.

Now as Chief Justice Vinson tried to point out, the value of association in the case of *Sweatt v. Painter*, you tried to give character and stature to the present Supreme Court Justices, in alluding to this tendency, that other justices may have thought the same thing. I feel sorry for the justices because they have disobeyed the law, and as I have stated in my prepared statement, they have been caught off base and they must know it.

But in your zeal to try to give them stature you have quoted *Missouri ex rel. Gaines* from the dissenting opinion, and from the majority opinion by Chief Justice Hughes, I quote:

The State has sought to fulfill that obligation by furnishing equal facilities and separate schools a method the validity of which has been sustained by our decisions.

There is no tendency away from the established law of the land, so to speak, in that decision.

Again, when you speak of the arguments and tendencies before the U.S. Supreme Court, in December 1952, I was in attendance at those arguments, and the chief counsel for the NAACP had this to say when we were talking about the law of the land, the law now that some of the brethren think enforces integration or else we are going to have chaos you say—Thurgood Marshall said, and I quote him:

We are not asking for affirmative relief that will put anybody in any school, the only thing we ask for is that State-imposed racial segregation be taken over and to leave the county school board, the county people, the district people to work out their own solution of the problem to assign children on any reasonable basis they want to assign them on.

More recently the Supreme Court, only last week, found as a reasonable basis that persons of one sex, namely, at the State University of Texas, that the male citizens can go to that State university to the exclusion of the female citizens because it is based in reason vested within the police power of the State.

Our parent areas do not deny human rights and say we have no defects. We in South Carolina want to correct our defects, we in South Carolina want to stand for human rights. And I may add that you would be an excellent chairman of a human rights committee, but this is a Judiciary Committee, and our stand really is for the fundamental law of the land and the Constitution of the United States. And we feel that in taking the strong stand that we do, we do so with pride in a feeling that thereby through the constitutional and regularly vested source of law, namely the Congress in our land, that through those media, and upholding these, that we will therefore promote human rights rather than having them torn down by tendencies, trying to write into the law what a man should think or believe, and all of these other social do-gooders are always trying to tell us in the South how to live.

Ford Frick, the commissioner of baseball once said, and maybe this has to do with our distinguished Congressman, Mendel Rivers' observation at the beginning, was asked about an umpire who would make a wrong call, what he would do with that umpire that called the ball the wrong way, and he said he would never differ with an umpire who would make a wrong call, but he would fire on the spot the umpire who had called the play and who was not in a position to see the play.

We do not find anyone, really, representative of our section of the country, white, Negro or otherwise, advocating any of these things. And I admit you folks are sincere, but you are just as far off base as you possibly can get, and you can really destroy human rights, you are not going to promote them. You cannot improve on the Constitution, and you cannot amend that Constitution by going first to the courts, and then through those in their zeal almost for human rights coming over here and legislating their findings into the law. The law has to

start with the people through their regularly elected Congress. That is our stand, and that is what we respectfully are here to be heard on, and not to be put aside as opposing human rights, or any of these other things.

The CHAIRMAN. I want to say, Governor, that I certainly respect your point of view, and you have argued most cogently from your side. But there is always a reverse side to every coin, and I am trying in my feeble way to present the other side.

Now you have indicated in your statement there are only 165 children that have been integrated. A Supreme Court decision, in my point of view, and the point of view I believe of many, many thousands of people, represents the law of the land. You differ with that and therefore there has been very little acceptance of that Supreme Court decision in your State, or none at all probably, and in some of your neighboring States. It is clear indication that the Supreme Court decision has been ignored.

Now I certainly do not like to have these kind of restrictive laws, I do not like to pass internal laws. They are irritating, they create all kinds of difficulties, they give rise to all kinds of emotional demagogue statements. I would that we did not have the duty to do anything. But if I felt, Governor, that you would accept, for example, and your colleagues would accept, the Supreme Court decision which spoke of integration with deliberate speed, and that you wanted reasonable delay within which to carry out the edict of that decision, I would be the first man to go forward and say there should be that right. But when you pass statutes of the type I have just read, and you have so-called massive resistance laws passed and so forth, and have other acts which clearly indicate that there is no desire to carry out the edict of the Supreme Court, let alone with any deliberate speed, then of course I cannot even sanction delay. Because if you grant delay under those circumstances, then the delay would only be for delays sake, and we would not have the enforcement of that probably until doomsday. That is how I feel about it, Governor, and you will forgive me for saying it in that way.

I try to be as conciliatory as I possibly can when I make that statement.

Governor HOLLINGS. I, and all of us here, respect your sincerity and your tolerance and understanding. However, it is a misstatement to say we have not accepted the Supreme Court decision in South Carolina. We have accepted it for what it is, and here is what the Chief Judge John J. Parker in the *Briggs v. Elliott* decision, supplemental decision said, and I am going to quote him, and he is one of the most eminent jurists that ever lived in our land:

It is important that we point out exactly what the Supreme Court has decided and what it has not decided in this case. It has not decided that the Federal courts are to take over or regulate the public schools of the States. It is not decided that the States must mix persons of different races in the schools or must require them to attend schools or must deprive them of the right of choosing the schools they attend. What it has decided, and all that it has decided, is that a State may not deny to any person on account of race the right to attend any school that it maintains. This, under the decision of the Supreme Court, the State may not do directly or indirectly, but if the schools which it maintains are open to children of all races, no violation of the Constitution is involved even though the children of different races voluntarily attend different schools as they attend different churches. Nothing in the Constitution or in the

decision of the Supreme Court takes away from the people freedom to choose the schools they attend. The Constitution, in other words, does not require integration. It merely forbids discrimination. It does not forbid such segregation as occurs as the result of voluntary action. It merely forbids the use of governmental power to enforce segregation. The 14th amendment is a limitation upon the exercise of power by the State or State agencies, not a limitation upon the freedom of individuals.

So we in South Carolina still have free choice, and that is the scope under which our schools are being conducted.

The CHAIRMAN. Mr. Miller wants to ask a question.

Mr. MILLER. Governor, I am having a little difficulty following your legal thinking, and I want to see if I understand it, or can get it clarified.

You are saying that the 1954 decision of the Supreme Court was in effect an usurpation of the legislative prerogative of the Congress?

Governor HOLLINGS. Yes, sir. Both the Congress and the States.

Mr. MILLER. Yet the 14th amendment, after its enactment, related broadly only to the discrimination as a result of race, color, and creed and so forth. It referred not at all to education, did it?

Governor HOLLINGS. No, sir; it did not.

Mr. MILLER. And as a matter of fact, nowhere in the Constitution is there anything that refers specifically to education?

Governor HOLLINGS. That is right, sir.

Mr. MILLER. However, I take it that based upon the decision of the Supreme Court in interpreting the 14th amendment in 1896, your State was satisfied, and all Southern States proceeded with equal but separate school facilities, based not on the wording of the Constitution, but upon case law itself, which you now say we should have no regard for?

Governor HOLLINGS. No, sir; the separate schools were immediately after the adoption of the amendment and prior to 1896, the same Congress-operated separate and equal school facilities right here in the District of Columbia, and that was prior to the *Plessy v. Ferguson* decision.

Mr. MILLER. Right. But I never heard one southern constitutional lawyer say that he doubted the right of any individual to have the Supreme Court determine the separate but equal facility idea in the light of the 14th amendment, or whether or not it was consistent with it. And as a result of the decision which emanated from the Supreme Court that separate but equal did comply with the 14th amendment, you then proceeded, and have ever since, constructed your schools and regulated your education, based upon it, and I have heard it said many times, upon not only the 14th amendment, but upon the decision of 1896. So that it seems to me you are somewhat constitutionally in a weak position when you say that you have no regard for, nor do you need to have any regard for, case law of 1954 when your whole school system, as a matter of fact, is based up case law of 1896.

Governor HOLLINGS. No, the whole school system is not based on case law of 1896. In presenting our position understandably the only place that we can get these do-righters and integrational and constitutional lawyers to a point of agreement is with the Court in 1896, and that is where we generally emanate our arguments, from that point. But the fact is that all constitutional lawyers that I have ever heard, on the contrary—take Mr. John Davis from your State, who

represented South Carolina in December 1952, the great constitutional lawyer of our time, who presented an argument there and at that time the very same Congress continued to operate separate and equal facilities. And it was not on account of *Plessy v. Ferguson* decision of 1896. All lawyers know that was a transportation decision down in Alabama of the position to be seated on a car in interstate commerce, and subsequently thereafter adopted in the school decision. So no real constitutional lawyer says that the basis for separate and equal facilities in public schools is in the 1896 *Plessy v. Ferguson* decision. We always start there because we have to start somewhere with you folks, and it is hard to get a starting point on what the constitutional law is.

Now you talked immediately after the enactment or adoption of the 14th amendment and the Supreme Court's enunciation of that doctrine. Twenty-five States had legislation as of the time in 1896 which required or permitted the operation of segregated schools, in spite of the existence of the 14th amendment; three other States operated segregated schools although their laws contained no specific provisions dealing with segregation; and in three States admitted to the Union after 1896 there were laws requiring or permitting segregated schools; 31 States operated the segregated schools in spite of the existence, Mr. Miller, of the 14th amendment. And it is interesting to note they were not all Southern States either—California, Indiana, New Jersey, New York—your State—Ohio, Pennsylvania, Illinois, Kansas, Wyoming, Iowa, Oregon, and others were among them. So actually we can go right back to the amendment itself if we want to clarify our position. We are not basing our position on the education under the separate and equal manner on the *Plessy v. Ferguson* decision or Court interpretation on the one hand in 1896, and disagreeing now with the Court interpretation of 1954. We are back to that old fundamental law of the Constitution of the United States, and its legally adopted amendments, and that is how we operate in our schools.

The CHAIRMAN. In other words, you base it on the reserve powers of the State?

Governor HOLLINGS. The 10th amendment, absolutely.

The CHAIRMAN. And does not the 14th amendment curb the reserve powers of the States?

Governor HOLLINGS. Not in the field of public schooling.

The CHAIRMAN. I beg your pardon?

Governor HOLLINGS. Not in the field of public schooling; no, sir.

The CHAIRMAN. Mr. Rodino.

Mr. RODINO. Governor, I too want to reiterate what the chairman said initially, that I am impressed with the sincerity of your statements, and we certainly want to do those things which are in the best interest of the whole United States. I respect you as the Governor of South Carolina. And I come from the State of New Jersey, and I hold the same interest with you in that we want to have a sound United States.

I am not a do-gooder or anything of that nature, but I would like to inquire of you, when you say that the things will all resolve themselves sooner or later, whether or not you feel there is no necessity whatsoever for enacting legislation which may define certain codes of conduct or certain areas where people are considered to be, you

might say, equal to other people, and whether or not this is just a fond hope on your part—and I hope it is something that will come about, that it is all going to come about in the ultimate—and then when you say that integration will never be accomplished, in your own statement, I cannot reconcile one position with the other.

Governor HOLLINGS. Well I do very definitely because I do not believe they want it.

Mr. RODINO. When you say “they” whom do you mean?

Governor HOLLINGS. Well, let’s say the colored people integrating with the white people. I do not believe the white people want to integrate with the colored in South Carolina, or I do not believe the colored people want to integrate with the white in South Carolina.

Mr. RODINO. Well, then, Governor, in the wake of the Supreme Court decisions, and just before the Supreme Court decision on the question of school integration, school segregation, why was it that the Legislature of South Carolina immediately began to pass certain laws that were on its statute books up until that time which evidently you people must have considered sound?

Governor HOLLINGS. We passed those laws, Mr. Rodino, to show exactly how those laws had come about, namely, as a matter of desire on the part of the people. Now without the laws we have the very same pattern, the very same schooling and the very same separate operation. So with the repeal of those laws we have stood, as I said, the acid test that segregation has not been imposed as law. And, as has always been maintained by NAACP, that if you do away with the law, there would be a mingling, everyone would jump together which is just unnatural and it does not happen that way.

We have one of the oldest housing authorities in the city of Charleston. The streets divide the whites and Negroes living in that housing authority. People do not play together——

Mr. RODINO. May I interrupt you right there, Governor?

Governor HOLLINGS. Yes, sir.

Mr. RODINO. Then you say it just does not happen that way. Will it ever happen?

Governor HOLLINGS. Not to the extent that the Congress and I myself as Governor would be concerned. I am not going to say no white person will ever go with any colored child, or vice versa, and I am not here to preach race hatred. We have a great respect and love for the colored people of the South, I can tell you that, sir.

Mr. RODINO. I respect again, I say, the sincerity with which you approach this problem. I know you have deep feeling, and I know how much Southern colleagues feel, and I respect them, and far be it for me to try to foment any tension.

But you see, what I cannot reconcile is this thinking, when you say “will eventually come about” and then when you say that it happens voluntarily, that there is this segregation. And I note that there is on the statute books the code of law of South Carolina, title 40, I think it is section 1272 or section 452, which has to do with it being unlawful for any person engaged in the business of cotton textile manufacturing in this State to allow or permit operatives, help, and labor of different races (a) to labor and work together within the same room; (b) to use the same doors of entrance and exit at the same time; (c) to use and occupy the same pay ticket windows, et cetera.

And I mention this because you mentioned that these things are done voluntarily, but you have a law on your statute books here which actually has to do with, I believe, a violation of equal job opportunities.

And I think in your statement on page 10 that you stated something about it is a national problem, or something of national concern, when there is labor disorder. Don't you believe that something like this would invite it?

Governor HOLLINGS. No, sir. On the other hand, it promotes good labor relations, peace and good order. There is not a single case under that statute.

Mr. RODINO. You would not believe that this is a question of discrimination?

Governor HOLLINGS. No, sir.

Mr. RODINO. Where you provide different pay windows, different doors through which to enter and exit?

Governor HOLLINGS. It is a discrimination based on reason, Mr. Rodino, and we believe it is reasonable, and in the best interest of good race relations, and good labor relations, and every other good relation. We believe it is a good thing, a proper thing, a reasonable exercise, just like the Supreme Court found that you should not allow white women into the white male college in Texas. Last week they found that constitutional. And they found that reasonable and nondiscriminatory.

We could go into various problems, white hair and brown eyes, and various other things, but are looking at the broad picture that this committee is concerned with, No. 1, voting rights and nondiscrimination and equal protection and human rights and all of those other things.

We oppose all of those bills because we do not believe they properly place before the legislative forum to write into the law these various things like you will try to write—we could go to Sunday School, you and I together, and write down rules for sins and against sins, and you and I could keep on writing, but the writing of them would never promote morality, and the writing of these laws here by this Congress, should they so see fit, would, rather than write in good human relations and nondiscriminatory practices, increase hatred, discrimination and injure human rights, in my judgment.

Mr. RODINO. In other words, you believe that if the Congress were to adopt the civil rights bill that the Congress of the United States would be increasing the disorder, inciting this feeling that may exist presently?

Governor HOLLINGS. There is not any question about it. The Attorney General has said so, let's say, with respect to religion when he was before the Senate subcommittee. And as I pointed out in my statement, Senator Ervin said, "Why not, just on account of race and color, and other provisions, and national origin, put in their religion," and he said, "Oh, no; let's not get in that field." I will quote him, he says:

It would promote more disorder and be a step backwards.

Well just as he feels about that question of religion, we feel the same way about schools. That was the point I made in my statement. It is an easy comparable. He said:

I think it would require the Government to become involved in a great deal of litigation which might very well harden resistance.

Well the way he feels in that respect I feel in respect to public schools.

Mr. RODINO. Thank you.

The CHAIRMAN. Mr. Rogers.

Mr. ROGERS. Governor, I take it, in reading what the Supreme Court actually has cited in 1954, that the State of South Carolina, or any other State, in the establishment of any facilities by taxpayers' money could not make a discrimination because of race, color, or creed. Isn't that your interpretation of what the Supreme Court decision of 1954 was, as you read it?

Governor HOLLINGS. I do not want to be misinterpreted, Mr. Rogers. We start on the fundamental, in believing that that is an unconstitutional decision, is a usurpation of the three-fourths amendatory power of the States and this Congress.

Mr. ROGERS. I do not want to interrupt you as to your interpretation of whether it violated the Constitution or whether it usurped it, but I think that you and I, as lawyers, can agree that if the decision means anything, it means that any State cannot conduct any of its facilities, bringing about a discrimination because of race, color, or creed, because that is the 14th amendment. And isn't that what the Supreme Court said in the 1954 decision?

Governor HOLLINGS. The 14th amendment isn't just discrimination, particularly, since the 1954 decision involves schools and school matters is my answer.

Mr. ROGERS. Well now, whether it is schools, or what it is, of course schools are very vital, but the interpretation, as it came under the 1954 decision, happened to apply to schools, as the 1956 case applied to transportation. But the principle that we as lawyers would interpret is that the Supreme Court then intended that the 14th amendment should be construed that no State could, under any of its laws, practice discrimination because of race, color, or creed. Now isn't that what you think—

Governor HOLLINGS. No, sir; I do not.

Mr. ROGERS. Well then, don't you think that any child in the State of South Carolina could petition the Federal court for the right to be admitted to a school in your State under that decision?

Governor HOLLINGS. I think any child could petition for admission into a school.

Mr. ROGERS. And if it followed this 1954 decision, then the school district would be compelled to accept it, if it is going to continue to school?

Governor HOLLINGS. That could happen, Mr. Rogers, I imagine. It is possible.

Mr. ROGERS. Yes. Well, you say it is possible—isn't that what they held in the Brown case, isn't that what they have held in many of these Federal cases where the petition has been filed, in Norfolk, Va., in Warrenton, Va.? I do not know whether you are familiar with those or not.

All of those cases where the petition was filed by the child, or his parent, the Federal court granted the injunction pursuant to this decision of 1954?

Governor HOLLINGS. As a lawyer, you know that a broad statement, intentionally broad statements in the 1954 decision, regardless of the unconstitutionality, you have the expression "with deliberate speed,"

and you are asking me isn't it a fact that, as a lawyer, such and such can happen. But you take "with deliberate speed," it is taken on the face of the decision that in one place, say in Warrenton, Va.—as to which I do not know the facts—or in another place, another section of the country, it would be with deliberate speed and be deliberate. I can tell you it would be undeliberate if there is such a word in South Carolina.

Mr. ROGERS. But ultimately if they follow the Supreme Court decision of 1954, the child would be admitted. Do you know of any case where a Federal court has denied the right of the child to be admitted to a school district after the 1954 decision?

Governor HOLLINGS. Yes, sir; there are some. I cannot remember offhand, but there have been some that have been petitioned and have not been admitted. The best answer is, the honest one, that I do not know, but I remember there were some that were denied. Even in your Virginia cases there were some children that were petitioning, and for one reason or another some were allowed and some were not allowed. I do not remember that fact.

Mr. ROGERS. Yes. But what you are objecting to is to have the United States, or its Attorney General, in any manner representing that child in filing that petition for his admission to the school district, isn't that right?

Governor HOLLINGS. I agree with that.

Mr. ROGERS. And that is really the first question in the civil rights bills that are presented to this committee, isn't it?

Governor HOLLINGS. No, sir; I think the first question before this committee is the broad picture of what is intended by the particular measures. And what is intended, I would take it, is comprised in the President's general overall observations and statement to the Congress on civil rights, his special message. And if I were a Congressman, I would consider generally whether these promoted civil rights in this Nation, or rather civil discord as I have maintained. I am convinced from the facts at hand in my knowledge of South Carolina that they would not promote civil rights, but rather promote civil discord. And accordingly, rather than trying to go to the 14th amendment, the technicalities, the Brown decision or the various little things that I could argue with you and with the chairman, or anyone else, I discard those laws because we have a great America, we have a democratic America, we have moral people, and we are succeeding without these laws, and I think they are unnecessary and many other things should be attended to by the Congress than that.

Mr. ROGERS. But getting back to the question I asked you, Governor, isn't the first question this committee has to decide whether or not we want to get into the field of giving to the Attorney General the authority to go in and represent an individual in an area where he feels that he has been discriminated against because of race, color, or creed?

Governor HOLLINGS. You take that question, I understand, from a error, isn't the first question this committee has to decide whether it was constitutional——

Mr. ROGERS. No——

Governor HOLLINGS. Or not as a Judiciary Committee member. I would ask would it be constitutional to give this Attorney General

the power, regardless of the need, because if the need is there there is a constitutional way to satisfy that by amending the Constitution if you find in your opinion it is unconstitutional. So I think the first precept of the question to ask of myself, let's say, if I were a Judiciary Committee member, is whether or not this was in accordance with the law of the land and Constitution of the United States, and I say it is unconstitutional.

Mr. ROGERS. Then you would say, as a Member of Congress, that such a proposal is unconstitutional and therefore we should not consider it further. But would you agree—you stated a moment ago that every child would have the right to go in and petition to be admitted to a school district in that State where he had been excluded because of race, color, and creed under the 1954 decision. Well now, if that is true, why should he be compelled individually to do it? Would the State of South Carolina pass a law that would permit him, or give him, representation to go and file that petition, or would you want the NAACP always running down there to file——

Governor HOLLINGS. Of course we do not want the NAACP in any circumstance, Mr. Rogers. The fact is that no evidence whatsoever has been submitted to show that a child has petitioned and been denied. And you do not pass laws on guess. The Congress has so many demands on it that they would rather not run around wondering, delving into psychology and other fields, trying to make and pass for the State, say of South Carolina, a law where there is no evidence whatsoever to substantiate the law. Now there are many, many other offenses that the child may have been denied, or rights that that child may have been denied, that there may be some evidence of, but the reputation of our State is for law and order. No one is being denied their rights, and they have the regularly instituted processes.

But here, going back to the original founding days of this country in order to eliminate the judicial tyranny and start of chamber proceedings and, they wrote into the Constitution certain protections for the individual, they reserved certain powers and rights for the States, and what you are doing now is taking and making an all-mighty Attorney General who can go around and bring at will any kind of cases he wants to, which is against the fundamental precepts of constitutional government in this country.

Mr. ROGERS. But the only alternative the individual would have then would be to institute it himself, or get someone from the NAACP to come in and institute it for him, and that you object to. How are you going to meet the problem?

Governor HOLLINGS. You give us the problem, and it will be met. You are trying to manufacture a problem that is based on everyone being so helpless and lost. Our people are well represented, they are happy, we have peace and good order. That is like me trying to say that in your State, sir, in Colorado, you are lost out there, that a fellow is getting his steers stolen, and how in the world, with the great cattle industry we have in Colorado, are we going to protect the individual when he gets his cow stolen, so let's go to Congress and let the Attorney General institute cow suits for his protection. I do not know anything about cow stealing——

Mr. ROGERS. If Colorado provided that only the colored be prosecuted for stealing cattle, and not the white, I think we would probably object to that very seriously.

Now let's go to the next question of election records. You make some reference to the fact you did not think the Federal Government should engage in that at all. Is that your statement?

Governor HOLLINGS. Sir?

Mr. ROGERS. You made some reference to the preservation from Federal Government in election—

Governor HOLLINGS. That is right, sir.

Mr. ROGERS. And you take the position that under no circumstance should the Federal Government have anything whatsoever to do with it?

Governor HOLLINGS. I very definitely do, under the present law, and they can gain access to the election records under the present law in the grand jury process. And my recommendation is that they adhere to that.

Mr. ROGERS. Under the State law?

Governor HOLLINGS. You can go to the Federal grand jury.

Mr. ROGERS. Federal grand jury?

Governor HOLLINGS. Federal election, yes, sir. That is what they did in Alabama.

Mr. ROGERS. If a Federal election is involved?

Governor HOLLINGS. Yes, sir.

Mr. ROGERS. Well you would have no objection then, as I take it, to the tightening up of any abuses that may have arisen under the election laws, would you?

Governor HOLLINGS. There goes the dream again. Where are the abuses? There is not a single complaint from South Carolina. There is one in Georgia, one in Alabama, and the Commission has been there for a year and a half, and in order to keep themselves busy they are going up to Mr. Miller's State, New York, to run around about housing problems when the whole matter before the Congress in '57 was really voting rights.

Mr. ROGERS. The question is, you would have no objection to tightening up the law that may eliminate abuses, would you?

Governor HOLLINGS. That is a good, general statement. I do not have any objection to a law that would tighten up the limitation of abuses generally, but the thing is whether or not the law is reasonable, whether it is needed, whether it is practicable.

Mr. ROGERS. Thank you, Governor.

The CHAIRMAN. Mr. Miller.

Mr. MILLER. Governor, I would like to get your opinion on one or two things for the record before you leave. I want to congratulate you upon an excellent statement.

Governor HOLLINGS. Thank you, sir.

Mr. MILLER. My feeling in this whole area of civil rights is completely different from the chairman's, and also completely different from yours. As the chairman indicated, there were always tensions and differences in our own State of New York over a long period of history with the English and Germans, and the Italians and the Jewish people and so forth. And of course, as the chairman pointed out, they have substantially been solved, and there is integration. But what the chairman did not mention was that it all was done without any law or any statute by the Federal Government.

Now I am of the school of thought that in the long run we are never going to legislate this thing to anyone's complete satisfaction. If

there is going to be an ultimate solution to this problem, which there certainly should be, it basically will come, I think, from education and assimilation. I take it that you more or less would agree with my thinking in that area?

Governor HOLLINGS. Definitely, yes, sir.

Mr. MILLER. That brings me to the first point that disturbed Mr. Rodino and also disturbs me. On the last page of your statement you said that:

The real truth is that thinking leaders of both races in the South realize that integration is unwise, impractical and will never be accomplished.

Now if you added there the word "by law" I think I would tend to agree somewhat with your position. But the difficulty is that while you come here, and it seems to me take the position that it can never be solved by law, and the law only creates tensions and magnifies prejudices, and therefore you do not want us to enact any law in this area, at the same time you do not let nature take its course in your own State by the absence of law but you immediately proceed, and maybe the Attorney General would like to comment on this, to enact statutes in your own State to prevent the happenings by nature which I feel should be the ultimate solution and which sometimes you say you think should be.

Now if you do not want me, for instance, to be a party to the enacting of legislation which would create tension, why do you then make it difficult for me to sustain my position in the Congress of the United States by enacting legislation in the State of South Carolina which by its very language would forever foreclose the possibility of nature taking its course and this thing being solved by education and assimilation and orientation because by statute it is prohibited?

Governor HOLLINGS. Mr. Miller, we go back to Mr. Cellar's observation about changing the decisions of the mind. Whether there will be a change in the decision on behalf of the people of South Carolina I am not prepared to state to this subcommittee. I know we will have the separate and equal school system as long as the majority of the people want it, and to the contrary, we will never have integration unless a majority of the people want it.

And I do not know at what time that would ever happen.

Now we do not legislate out the possibility of anything, we recognize that in public schooling it means just what it says, schools supported by the public. And we have every element of society and belief and creed, in heritage and culture and what have you in South Carolina.

I live, for example, in a cosmopolitan area. In the city of Charleston, 25 percent of the Catholic population is located within the city limits of our entire State. We have a large Jewish, started to say congregation, but segment of our society. There is a great Italian community there. Over half of our school children within the city are colored.

Now when we pass laws in our legislature, for example, we pass laws for a purpose. And the purpose of the laws that you perhaps referred to have to do with public schooling. And they have to be laws that will be supported, that will give public support to the school system. You cannot get this education, Mr. Miller, unless you have the schools.

If we were in the Belgian Congo the laws would be the other way, but our history is otherwise in South Carolina. And if we lived

in Spain, or in other countries—I have pointed out differences there. We try to recognize realistically that what we are after is education, which you and I agree on.

That is the only way we are going to get ahead and that is the only way we can provide for them is under that separate pact.

Mr. MILLER. But if no one in South Carolina, either colored or white, cares about integration or desires it, why do you need to pass a statute to prevent it?

Governor HOLLINGS. Where is the statute to prevent it? We had to eliminate all of them after May 1954. The word "race" is not in those statutes.

Mr. MILLER. The labor laws.

Governor HOLLINGS. The labor laws—I stand corrected there. But otherwise we are talking of public schooling.

Mr. MILLER. If no one desires it in employment or in schools, or anywhere and everyone is satisfied in South Carolina, why do you have to pass any statute that says that a colored person cannot get his pay envelope at the same window? If he does not want to get it at the same window anyway, why do you have to pass a statute?

Governor HOLLINGS. I am not familiar with that particular statute. I am told by my Attorney General that actually there is no case under it, and you have scared up a law that I am not familiar with. But the point is on this general question of schooling, that we repeal the laws of compulsory attendance in separate schooling and otherwise—yet the best way to answer your question is to ask one.

Why hasn't a single colored child, for example, applied for admission to a white school since May 17, 1954? Now you cannot tell me that the colored people of South Carolina are indolent, stupid, and uneducated. They have a good, intelligent group.

We are down at the bottom in some respects on illiteracy, but they are learning. They have good respectable leaders among their own groups, and why aren't they petitioning? They are not.

Mr. MILLER. You have to remember, Governor, also, that when we are considering legislation here in the Congress of the United States, we are not aiming this legislation at the State of South Carolina. If we pass legislation, it has to be national in scope, and I do not know that the statement which you just made would be true of every single State in the Union, as to whether or not there has ever been a Negro child who has made application, or petitioned for admission to a white school.

Governor HOLLINGS. South Carolina is typical of the South.

The CHAIRMAN. Governor, I have before me these records on complaints filed, and there have been 13 petitions filed complaining about failure of desegregation: In Beaufort County, both school districts, Charleston County, three petitions; Cheraw, Florence, Greenville, Orangeburg County, two petitions; Richland County, Sumter County, two petitions.

For court action:

Briggs v. Elliot, Clarendon County, Summerton District suit that went to the United States Supreme Court and was consolidated under Brown case—remanded to Federal district court, which ordered desegregation but set no time limit.

Ola L. Bryan et al. v. M. G. Austin et al., suit of Elloree Negro Teachers against State law forbidding employment of NAACP members—case made moot by repeal of law.

Woodrow W. Hood v. Sumter School District No. 2, suit brought by group known as "Turks" seeking admission to white schools on basis of being Caucasians. District and circuit courts have ruled that administrative remedies had not been exhausted. Supreme Court denied writ of certiorari.

So there have been cases of complaints.

Governor HOLLINGS. The case you refer to, the only case now, Mr. Chairman, is the *Briggs v. Elliot* case, and that is the original segregation case.

The CHAIRMAN. I beg your pardon?

Governor HOLLINGS. What you quoted from as Brown against Board of Education, is the decision. The original case came from South Carolina in Clarendon County. That is the only case.

The CHAIRMAN. Isn't it a fact also that many of those might be agreed for fear of economic boycott or some sort of persecution?

Governor HOLLINGS. We could guess at that, but there is no evidence of it.

The CHAIRMAN. Well, you have banned the National Association for the Advancement of Colored People—

Governor HOLLINGS. They have been domesticated in the State of South Carolina in the last month.

The CHAIRMAN. You passed a so-called antibarratry statute which precludes that organization from taking up for these persons who are aggrieved—

Governor HOLLINGS. Mr. Chairman, there is a common law about barratry, and no one said anything about the NAACP. There are no laws against the NAACP, they were just domesticated under the laws.

The CHAIRMAN. There was one at one time.

Governor HOLLINGS. One composed at one time. We get such things as blood transfusion bills, and you get all kinds of legislation, and we will have everything in every State, but the question before the committee is whether or not there is need for it, whether it is wise, and primarily whether it is constitutional.

The CHAIRMAN. May I ask this question, Governor, and then I will cease. In the event of our passage of any kind of a statute pertaining to education, would you sanction the closing of your public schools under the statutes that you have heard read?

Governor HOLLINGS. Well, under the statutes that you have read, sir, the Governor is not vested with the authority of closing schools in South Carolina.

The CHAIRMAN. Would you approve the closing by the local authorities?

Governor HOLLINGS. It depends upon the circumstances. What you are getting at is—we want education, and we will do everything possible to keep these public schools open in South Carolina, and let alone we will do it.

The CHAIRMAN. Under what circumstances would you have them closed?

Governor HOLLINGS. Under what circumstances? Oh, we could guess at a lot of things that might close the schools.

The CHAIRMAN. What is that?

Governor HOLLINGS. I say, sir, we could guess at a lot of things that may close the schools, but I am not up here telling the subcommittee of the Congress that I am intent on closing public schools. My intent is exactly the opposite, to keep them open.

The CHAIRMAN. Would you approve, or would you object to, the local authorities closing the schools if Congress passed some statute with reference to desegregation of the public schools?

Governor HOLLINGS. I would have to see the statute.

The CHAIRMAN. If the schools closed—I will make this supposition—if the schools are closed would that mean then that South Carolina would be confronted with the following, it is either segregation under the separate but equal doctrine, or schools closed?

Governor HOLLINGS. Well, that is two realistic possibilities, but I am not prepared to say, and will not say, that we are here to close the schools, but rather we will do everything possible, regardless of the statutes enacted, to keep the schools open. There could come a time, as I have mentioned in my statement, that in the primary function of maintaining peace and good order in my State I would have to stop the schools and generally stop all activity around a certain community.

Because the feeling is very strong, regardless of whatever we may think or believe, the main thing is, as we all know, to keep little children from injury. So despite my desire for continued schooling otherwise, and the desire to maintain law and order, I might in the idea of keeping law and order have to close the school, or have to put persons around it. I do not have the authority generally, other than the peace and good order statute.

The CHAIRMAN. I think that is the end of the questioning, Governor. Excuse me, Mr. Miller has some questions.

Mr. MILLER. Governor, I just want to close with your opinion on this:

You mentioned in your prepared statement the bill introduced by Senator Douglas, and Senator Javits, and referred to the one introduced by the chairman of the committee. You also referred quite frequently to the President's recommendations in this field.

Now are you familiar with the provisions of H.R. 4457, which is the bill introduced by Mr. McCulloch, of Ohio, and is the so-called Administration bill to carry out the recommendations of the President in this area? Are you familiar with that bill?

Governor HOLLINGS. No, sir; I am not. I have seen that bill. That is the omnibus bill, somewhat similar to Senate 810, I believe, on the Senate side.

Mr. MILLER. It is a very much narrower bill than—

Governor HOLLINGS. I am not familiar with it.

Mr. MILLER. Than the Javits' or Douglas' or the chairman's bill. In other words, in those bills, in certain areas, an injunction will lie for a violation of a civil right of any type, nature or description, any discrimination because of race, color, or creed.

Now in the Administration bill the injunction provision relates only to the integration of school cases. I take it that you would prefer the Administration approach in that area to the Javits-Douglas approach?

Governor HOLLINGS. I do not prefer any approach.

Mr. MILLER. I know you do not. You have come here, apparently, well versed on the sections of the Javits-Douglas bill, and the terms of the bill, and have reiterated your opposition to the bill and with your head in the ground take the position that you are not going to be for any civil rights bill.

Now I think as the Governor of the great State of South Carolina you ought to orient yourself on the provision of all of the legislation in this field so that you might take a position—I can understand your situation, I know you to be sincere in it, and I commend you for your sincerity and your ability to present the argument for your State. But I think that you ought to be in a position to discuss the other legislation and to say whether or not, if the Congress is going to pass any legislation in this field, that you would at least prefer one approach to the other.

Governor HOLLINGS. Well, Mr. Miller, to begin with, as I stated in the very beginning, we feel that South Carolina is adequately represented in the Congress, both in the House and in the Senate, on this particular subject.

Secondly, sir, I apologize for not knowing the particular details of the bill myself. As I said in my opening remarks, the Attorney General will allude to the specific bills.

In the spirit of saving time, for both this committee and the Senate subcommittee, we thought it well, and I believe my statement is long enough to cover the subject generally, and he has a statement on these particular bills—

Mr. MILLER. Governor, you referred, for instance, to the creation of the Commission on Equal Job Opportunities in lieu of a commission, or in lieu of a committee.

Governor HOLLINGS. Yes, sir.

Mr. MILLER. And then you referred to it as being an FEPC approach, which has been held unconstitutional year after year by the Congress of the United States.

Now actually the President never asked for any such thing, nor does this committee or the Commission on Equal Job Opportunity do any such thing. It relates only to employment on Government contracts where Government funds are being used, which is an entirely different thing than a Fair Employment Practices Commission to prevent discrimination on all contracts in interstate commerce, and even between individual corporations and so forth and so on.

Now if you come, not even prepared to yield a little bit on one situation, and opposing everything, my fear is, Governor, that you are going to end up with a law a lot worse than might be worked out by conciliation and by some cooperation and by some understanding here of a middle of the road approach to the problem.

I understand you do not want to go up the road 1 mile, but you have to understand there are many who want to go up the road 20 miles. And I think I believe in States rights as thoroughly, if not more so, than do you. I am opposed to any kind of legislation which will insult the State of South Carolina applying only to it and the South.

We have the Lindbergh law, and no one from any Southern State indicated to me that it was an insult to the Southern States. And my

chairman mentions the narcotics cases. Insofar as the Administration bill is concerned, title II, in bombing cases, brings the Federal Government into cases where the perpetrator of the crime flees into interstate commerce, and makes it difficult for one State to secure or apprehend and convict him.

But I am not for making a murder committed in South Carolina a Federal crime simply because the gun happened to be purchased in Chicago. Yet I have heard some thinking along that line in the course of these hearings.

But if we restrict it solely to its flight provisions, I would be willing to have an amendment to title II which would not only include under this section religious institutions or educational institutions, but also industrial establishments so that we could get at those labor situations that you refer to.

I am just as disturbed about them as you are. I would be for such an amendment. But I think we have to be a little more conciliatory in our approach to this problem, or else I think you are going to get legislation which will really create tension and, in my judgment, be unenforceable in many cases and be most difficult of enforcement in others. Legislation which would divide, instead of unite, our country and generally do a lot of harm.

But I think it is just one of those cases, Governor, where in the interest of all we must give and take.

Governor HOLLINGS. Well, Mr. Miller, we have already taken, at this point, more than we ever wanted. And I would say to you, for example, on the flight from justice in school or church desecration, or even individual home bombings, that the Attorney General gave no such example of flights like we had in the kidnap law cases. The President, rather, commended the local authorities. And what you have, where you have the local law enforcement officers cooperating with the FBI, is the using of the laboratories to analyze the dynamite and powder at the sites, and otherwise. Rather than going in there with some desire for law enforcement, like I stated in the statement on prohibition, they are going to take, prohibit the local authorities—and the Federal authorities got so they could not properly enforce the law, and all law enforcement and respect for law enforcement, broke down. And what I am saying is that we have a good thing in the regularly established local law enforcement, and we do not need this thing, and this other would rather hinder good law enforcement. Now yielding is probably a good thing in all legislative halls, because I have served for 10 years in the House and Senate in South Carolina myself, but when it comes to the constitutional principle of the law of the land, we cannot yield 1 mile or 20 miles, or yield at all on this principle in South Carolina, although we want to do everything we can to get along with you folks. We did not come up here to make a newspaper story, we came up here with the sincere desire to tell you folks our situation in South Carolina as we understood it and as we knew it. I do not want to yield. If I yielded, on the other hand, though I did not want to, I would not last in South Carolina 5 minutes. That is how strong my people feel. I am sincerely representing and reflecting the true feeling in my State, and we stand on the principle.

Mr. ROGERS. I think the record is clear, Governor, that you do not favor the civil rights bills.

Mr. MILLER. I got that impression.

The CHAIRMAN. I want to thank you, Governor, for your attendance. And if your colleagues want to submit statements, we would be very glad to accept their statements for the record.

Governor HOLLINGS. Yes, sir.

(The documents referred to are as follows:)

STATE OF SOUTH CAROLINA

A JOINT RESOLUTION CONDEMNING AND PROTESTING THE USURPATION AND ENCROACHMENT ON THE RESERVED POWERS OF THE STATES BY THE SUPREME COURT OF THE UNITED STATES, CALLING UPON THE STATES AND CONGRESS TO PREVENT THIS AND OTHER ENCROACHMENT BY THE CENTRAL GOVERNMENT AND DECLARING THE INTENTION OF SOUTH CAROLINA TO EXERCISE ALL POWERS RESERVED TO IT, TO PROTECT ITS SOVEREIGNTY AND THE RIGHTS OF ITS PEOPLE

Passed unanimously by the Senate and House of Representatives of the State of South Carolina at the Second Session of the 91st General Assembly

STATE OF SOUTH CAROLINA

EXECUTIVE DEPARTMENT

By the Secretary of State:

This is to certify the hereto attached printed copy of a joint resolution entitled: "Condemning and protesting the usurpation and encroachment on the reserved powers of the States by the Supreme Court of the United States, calling upon the States and Congress to prevent this and other encroachment by the central Government and declaring the intention of South Carolina to exercise all powers reserved to it, to protect its sovereignty and the rights of its people," to be true and correct as taken from and compared with the original joint resolution so entitled, now on file in this office.

Further, That the said joint resolution received three readings on as many days in each branch of the general assembly, as evidenced by the signatures of the President of the Senate and the Speaker of the House of Representatives; was duly ratified; was approved by the Governor; and the great seal of the State was duly affixed thereon.

[SEAL]

O. FRANK SHORNTON,
Secretary of State.

CALENDAR NO. S. 514

Introduced by Senators Gressette, Jefferies, John H. Williams, McFaddin, Abrams, Baskin, Brown, Callison, Dennis, Ellison, Graham, Grant, Hester, Kearse, Lawson, Lawton, Legare, Leppard, Long, Mars, Martin, McKown, Miley, Mishoe, Moore, Morrah, Morris, Morrison, Mozingo, Myrick, Parler, Powell, Richardson, Rodgers, Spigner, Stevens, Paul A. Wallace, W. Lewis Wallace, Weathersbee, West, Wheeler, Marshall B. Williams, W. Bruce Williams, Wilson, and Yonce.

A Joint Resolution condemning and protesting the usurpation and encroachment on the reserved powers of the States by the Supreme Court of the United States, calling upon the States and Congress to prevent this and other encroachment by the central government and declaring the intention of South Carolina to exercise all powers reserved to it, to protect its sovereignty and the rights of its people.

Mindful of its responsibilities to its own citizens and of its obligations to the other States, the general assembly of South Carolina adopts this resolution in condemnation of and protest against the illegal encroachment by the central government into the reserved powers of the States and the rights of the people, and against the grave threat to constitutional government, implicit in the recent decisions of the Supreme Court of the United States, for these reasons:

1. The genius of the American Constitution lies in two provisions. It establishes a clear division between the powers delegated by the States to the central

government and the powers reserved to the States, or to the people. As a prerequisite to any lawful redistribution of these powers, it establishes as a part of the process for its amendment the requirement of approval by the States.

The division of these powers is reaffirmed in the 10th amendment to the Constitution in these words: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Long judicial precedent also clearly reaffirms that central government is one of delegated powers, specifically enumerated in the Constitution, and that all other powers of government, not prohibited by the Constitution to the States, are reserved to the States or to the people.

The power to propose changes and the power to approve changes in the basic law is specifically stated by article V of the Constitution in these words: "The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress * * *"

Lincoln, in his first inaugural, recognized these constitutional principles in the following language: "The maintenance inviolate to the rights of the States, and especially the right of each State to order and control its own domestic institutions, according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depend * * *"

2. Neither the judicial power delegated to the Supreme Court in article III of the Constitution nor such appellate jurisdiction as the article authorizes the Congress to confer upon the Court, makes the Court the supreme arbiter of the rights of the States under the compact.

3. The right of each of the States to maintain at its own expense racially separate public schools for the children of its citizens and other racially separate public facilities is not forbidden or limited by the language or the intent of the 14th amendment. This meaning of the 14th amendment was established beyond reasonable question by the action of the Congress in providing for racially segregated schools in the District of Columbia by legislation contemporaneous with the submission of the 14th amendment to the States in 1866, and by the fact that a majority of the States in the Union at that time recognized that segregation in public facilities had not been abolished by this amendment. There is no evidence in the Constitution, in the amendments, or in any contemporary document that the States intended to give to the Central Government the right to invade the sanctity of the homes of America and deny to responsible parents a meaningful voice in the training of their children or in the selection of associates for them.

4. For almost 60 years, beginning in 1896, an unbroken line of decisions of the Court interpreted the 14th amendment as recognizing the right of the States to maintain racially separate public facilities for their people. If the Court in the interpretation of the Constitution is to depart from the sanctity of past decisions and to rely on the current political and social philosophy of its members to unsettle the great constitutional principles so clearly established, the rights of individuals are not secure and government under a written Constitution has no stability.

5. Disregarding the plain language of the 14th amendment, ignoring the conclusive character of the contemporary actions of the Congress and of the State legislatures, overruling its own decisions to the contrary, the Supreme Court of the United States on May 17, 1954, relying on its own views of sociology and psychology, for the first time held that the 14th amendment prohibited the States from maintaining racially separate public schools and since then the Court has enlarged this to include other public facilities. In so doing the Court, under the guise of interpretation, amended the Constitution of the United States, thus usurping the power of Congress to submit, and that of the several States to approve, constitutional changes. This action of the Court ignored the principle that the meaning of the Constitution and of its amendments does not change. It is a written instrument. That which the 14th amendment meant when adopted it means now (*South Carolina v. United States*, 199 U.S. 437, 449)

6. The educational opportunities of white and colored children in the public schools of South Carolina have been substantially improved during recent years and highly satisfactory results are being obtained in our segregated schools. If enforced, the decision of the Court will seriously impair and retard the education of the children of both races, will nullify these recent advances and will cause untold friction between the races.

7. Tragic as are the consequences of this decision to the education of the children of both races in the Southern States, the usurpation of constitutional power by the Court transcends the problems of segregation in education. The Court holds that regardless of the meaning of a constitutional provision when adopted, and in the language of the 1955 Report of the Gray Commission to the Governor of Virginia, "irrespective of precedent, long acquiesced in, the Court can and will change its interpretation of the Constitution at its pleasure, disregarding the orderly processes for its amendment set forth in article V thereof. It means that the most fundamental of the rights of the States or of their citizens exist by the Court's sufferance and that the law of the land is whatever the Court may determine it to be * * *." Thus the Supreme Court, created to preserve the Constitution, has planted the seed for the destruction of constitutional government.

8. Because the preservation of the rights of the States is as much within the design and care of the Constitution as the preservation of the National Government, since "the Constitution, in all of its provisions, looks to an indestructible Union, composed of indestructible States" (*Texas v. White* (1869), 7 Wallace 700, 725), and since the usurpation of the rights reserved to the States is by the judicial branch of the Central Government, the issues raised by this decision are of such grave import as to require this sovereign State to judge for itself of the infraction of the Constitution.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. That the States have never delegated to the Central Government the power to change the Constitution nor have they surrendered to the Central Government the power to prohibit to the States the right to maintain racially separate but equal public facilities or the right to determine when such facilities are in the best interest of their citizens.

SEC. 2. That the action of the Supreme Court of the United States constitutes a deliberate, palpable, and dangerous attempt to change the true intent and meaning of the Constitution. It is in derogation of the power of Congress to propose, and that of the States to approve, constitutional changes. It thereby establishes a judicial precedent, if allowed to stand, for the ultimate destruction of constitutional government.

SEC. 3. That the State of South Carolina condemns and protests against the illegal encroachment by the Central Government into the reserved powers of the States and the rights of the people and against the grave threat to the constitutional government implicit in the decisions of the Supreme Court of the United States.

SEC. 4. That the States and the Congress do take appropriate legal steps to prevent, now and in the future, usurpation of power by the Supreme Court and other encroachment by the Central Government into the reserved powers of the States and the rights of the people to the end that our American system of constitutional government may be preserved.

SEC. 5. In the meantime, the State of South Carolina as a loyal and sovereign State of the Union will exercise the powers reserved to it under the Constitution to judge for itself of the infractions and to take such other legal measures as it may deem appropriate to protect its sovereignty and the rights of its people.

SEC. 6. That a copy of this resolution be sent to the Governor and legislature of each of the other States, to the President of the United States, to each of the Houses of Congress, to South Carolina's Representatives and Senators in the Congress, and to the Supreme Court of the United States for its information.

SEC. 7. This act shall take effect upon its approval by the Governor.

In the Senate House the 14th day of February, in the year of our Lord one thousand nine hundred and fifty-six.

ERNEST F. HOLLINGS,
President of the Senate.

SOLOMON BIATT,
Speaker of the House of Representatives.

Approved the 14th day of February 1956.

GEORGE BELL TIMMERMAN, Jr.,
Governor.

JOURNAL OF THE SENATE OF THE STATE OF SOUTH CAROLINA

REGULAR SESSION BEGINNING TUESDAY, JANUARY 13, 1959

Tuesday, March 31, 1959

SIXTH INTERIM REPORT OF SOUTH CAROLINA SCHOOL COMMITTEE

To His Excellency, the Governor and the Honorable Presiding Officers and Members of the General Assembly:

HISTORY OF COMMITTEE

This committee of 15 is still functioning under the authority of Concurrent Resolution No. 371 of 1951, as amended to continue it in indefinite operation. It is composed of five Senators and five Representatives appointed by the presiding officers of the House and Senate and five laymen appointed from the State-at-large by the Governor. All are serving indefinite terms. The purpose of the committee was to study the conditions which might arise from an adverse decision of the U.S. Supreme Court in the lawsuits attacking segregation of the races in public schools of South Carolina and other States and to recommend courses of action which would preserve the public schools and improve educational opportunity.

Since the spring of 1954, the committee has been in almost continuous session, meeting periodically at the call of the chairman. For almost 2 years the committee met as often as two and three times a month for as much as 2 days at a time. After the South Carolina plan took shape through the deliberate and wise action of a succession of governors and general assemblies, the committee did not find it necessary to meet quite as often, but it has continued to meet frequently to canvass developments in other States and to keep a close watch on the entire situation in our State.

From the time it was established in 1951, there have been changes in the membership of the committee. All five of the original lay appointees are still active. The changes have occurred among the Senate and House members and have reflected the shifting membership of those two bodies. In every instance, the presiding officers have acted with great care and wisdom in choosing successors to fill such vacancies as have occurred. The result has been that, over the years, the committee has had the benefit of the thoughts and advice of many dedicated men who have come and gone, while it still has been able to maintain the continuity of thought and policy that comes from having a nucleus of original members.

The committee has followed the policy of hearing every group and individual asking to be heard. It has received and considered literally hundreds of letters and telegrams offering suggestions. It has heard hundreds of individuals and representatives of many groups representing a complete cross section of opinion on the problems involved. It has worked closely with school officials and has held periodic conferences with individual school boards and with representatives of organizations of district officials and teachers.

At all times the committee has maintained close liaison with the presiding officers of the general assembly, the Governor and all other officials who might be concerned with the issues.

In addition, the committee has conferred with officials of other States. Subcommittees have visited other States and have made special studies as directed by the committee as a whole.

ACTIVITIES

More than 2 years ago the committee enlisted the services of an educational consultant, who is one of the foremost academic authorities on educational law in the United States. It also recruited a legal staff composed of six of the ablest members of the South Carolina Bar.

All of these men have contributed greatly to the work of the committee. Their services have been placed at the disposal of school boards and other authorities. Members of the legal staff have defended local officials in one lawsuit. They have conducted research on proposed legislation and have made tentative drafts of bills which may be offered at a later date, if and when needed.

The committee and the staff have given due consideration to every proposal submitted and are grateful for the many suggestions that have been received from officials and citizens alike.

In a series of five interim reports, from July 28, 1954, through February 25, 1958, the committee has made suggestions of changes in the laws pertaining to the public schools and has rendered an accounting of its activities. These are a matter of record in the files of the general assembly and the archives of the State.

BASIC POLICY

The committee early established the policy of trying to maintain the public schools and institutions of higher learning at peak efficiency. This required, first, an atmosphere free from racial controversy and, second, a program aimed at developing facilities and curricula as rapidly as the resources of the State would permit.

To these ends the policies of the committee have been shaped; its efforts have always been bent toward rendering the utmost assistance to those officials and agencies directly responsible.

In every instance, the committee is proud and grateful to be able to say, the general assembly, the Governor, and the public, have accepted its recommendations. Needed changes in the laws have been made, approved and accepted. Unwise, hasty and ill-considered proposals have been rejected.

The results are manifest in the status of our schools today. They are operating peacefully and efficiently. Never before in our history have our children enjoyed greater opportunities for the best education they are capable of assimilating. Our people have demonstrated that they are most interested in opportunity and genuine advancement than in a synthetic social revolution which can produce only strife and can result only in retarding the progress of all of our people.

THE FUTURE

The committee is acting on the belief that the citizens of South Carolina will maintain this sensible attitude. Every act of the State has had the purpose of serving the best interests of the individual pupil and of education in general.

Repeatedly this committee has stated that it would not recommend any law or course of action that would force Negroes into white schools or whites into Negro schools. Its position was plainly stated in the joint resolution which it helped to draft and which was adopted unanimously by the general assembly and signed by the Governor under date of February 14, 1956. It has not deviated from that position, nor has the Governor, the general assembly or the State as a whole.

The committee has again conducted one of its periodic surveys of the status of all of our institutions. It finds them in good order, and at present it respectfully recommends that no further action be taken and that no additional legislation be enacted at this time.

If conditions change, or if unexpected developments occur, it will strive to the limit of its ability to be prompt with recommendations to meet them.

Meanwhile, the committee wishes to express its gratitude for the assistance and support of three successive Governors, six successive general assemblies and the overwhelming majority of the citizens of South Carolina.

Respectfully submitted.

L. MARION GRESSETTE,
Chairman, on Part of the Committee.

COLUMBIA, S.C., March 31, 1959.

Attest:

WAYNE W. FREEMAN,
Secretary.

MEMBERS OF THE COMMITTEE

Senators

L. Marion Gressette, *Chairman*
Francis C. Jones
James P. Mozingo, III
William E. Myrick
Marshall J. Parker

Representatives

James O. Rogers, Jr., *Vice Chairman*
Arthur C. Baker
William C. Dobbins, Jr.
Charles G. Garrett
W. L. Rhodes, Jr.

GOVERNOR APPOINTEES

Wayne W. Freeman, *Secretary*
 Judge Miller C. Foster, Sr.
 G. Creighton Frampton

George D. Levy
 George Warren

RECORDING SECRETARIES

Miss Mary L. Adams

Mrs. Leila M. Sawyer

LEGAL STAFF

David W. Robinson, *Chief Counsel*
 Thomas A. Evins
 Robert McC. Figg, Jr.

Clint T. Graydon
 P. H. McEachin
 E. P. (Ted) Riley

EDUCATIONAL CONSULTANT

Dr. Newton Edwards

On motion of Mr. Long, the Senate gave a rising vote of thanks to Mr. Gressette and the South Carolina School Committee.

STATEMENT BY STATE SENATOR EDGAR A. BROWN BEFORE SUBCOMMITTEE OF U.S. HOUSE JUDICIARY COMMITTEE ON PROPOSED CIVIL RIGHTS LEGISLATION, TUESDAY, APRIL 14, 1959, WASHINGTON, D.C.

I am Edgar A. Brown of Barnwell, South Carolina. I am president pro tempore of the State Senate of South Carolina, and national Democratic committeeman from South Carolina.

For 45 years, I have served continuously as an official of the Democratic Party, and for 39 years I have served continuously in the Legislature of South Carolina.

As a matter of fact, due to the generosity of the people of my home county of Barnwell, I have been privileged to serve continuously longer in public affairs in the last half century than any other man in South Carolina.

Speaking from this background of intimate knowledge, I would declare without qualification that no further Federal civil rights legislation is necessary for freedom, justice, peace, and happiness among all the people of South Carolina.

I go even farther: I declare that those forces outside of the South who advocate such legislation are doing a terrible disservice to the well-being of all races and all people in South Carolina when they deliberately agitate such issues.

For reasons of year-to-year political expediency, these forces outside the South are threatening, by every new move they make, to disrupt the peace and harmony of the most deep-rooted, patriotic, God-fearing section of this great Nation.

Both national political parties are equally guilty of shortsighted political judgment. This is asserted by me with great shame for the Democratic Party after my 45 years of unswerving and loyal devotion.

If both the national Democratic and Republican Parties had requested Nikita Khrushchev in Moscow to draw up a program of baseless propaganda to utterly misrepresent and persecute the South, Khrushchev himself could not have done a more thoroughly reprehensible job than have the policymakers of our own American political parties. I say this with apologies to no one.

I tell my fellow Democrats here and now, that those of us who have held the South together politically, believing that the Democratic Party means more to the welfare of the people of the Nation—that stalwart regular Democrats, as I claim to be, cannot be expected in the future to continue to keep our majority together if you pursue further the vicious affronts against our people. You insult whites and Negroes alike when you engage in such false and useless methods.

Being a lifelong Democrat, I express appreciation to the Republicans among you for letting your party miss the boat politically when you decided to send paratroopers to Little Rock, and otherwise vented your political disdain of the responsible people of the South.

Often in politics we talk about the "good people" among our own constituents. Sometimes we try to pretend in a campaign that all people are good people.

Actually, however, we know that in every section of the Nation there are people of real substance who have made this the greatest Nation in the history of the world. These people of substance are not in any particular class, race, or party. There are people of substance in all classes, races, and parties.

Now, I charge that both national parties have completely disregarded the people of substance in the South, including the responsible Negro people. We have a large number of worthy and highly respected citizens among the Negro race in the South, citizens who serve the State increasingly well and who serve their own race faithfully and well.

What have you on this committee heard from responsible Negro citizens in South Carolina, or any other Southern State about civil rights?

If you have heard anything at all from them, I am confident that you have been told that our Negro population now enjoys all the civil rights afforded to all free Americans.

Oh, yes, we have insisted upon maintenance of segregated public schools in South Carolina, and, make no mistake about it, we will continue to insist upon segregated education in whatever form it must take, but the people of South Carolina, both white and Negro, have received and will continue to receive their full civil rights under the true meaning of the U.S. Constitution.

These guarantees are fulfilled without discrimination as to race. No need exists for a special agency or Federal supervision.

Constant agitation of the question, as though need did exist, serves as a dangerous and unwarranted irritant. Carried to an extreme, outside pressure will further seriously interfere with race relations, that an official branch of State government (the Gressette Committee on Education) has just described as being most harmonious.

The term "civil rights" means the constitutional guarantees such as freedom of expression and assembly, fair trial, equal justice, and other rights of free citizens—ownership of property, freedom to do business, and so on.

The voting rights of qualified Negro citizens are not impaired in South Carolina. Nor is the right of Negroes to serve on juries. An increasing number of colored citizens have become eligible for voting and jury service, as anyone familiar with South Carolina polls and courtrooms can verify. South Carolinians of all races resent groundless suspicion cast on them by setting up Federal police authority in the name of a civil rights commission. They rightly regard it as an invasion of States rights which is also guaranteed by the Constitution.

We have adequate and proper civil rights laws within the State. State laws, with respect to separation of the races in some long established and generally accepted phases of activity, do not infringe on civil rights. These laws are designed to protect civil rights of both races, and to maintain the peace. On the other hand deviously conceived pretenses of so-called "rights" threaten our peace and happiness among all races.

This I say with a sense of deep responsibility and sincerity: Leave South Carolina's affairs to South Carolinians, or the consequences are apt to be disastrous from several viewpoints, not the least of which might be the smashing of the solid political South.

The civil right of parents to have a voice in the schooling of their children does not curtail constitutional civil rights as spelled out in the Bill of Rights or elsewhere in the U.S. Constitution. Negro citizens have identical rights of exclusion in these same areas.

Without these State and local protective laws and customs, based on many decades of friendly and satisfactory actual experience, the civil rights and indeed the lives of citizens of both races may be endangered.

Without going into the details of each of the hodgepodge of bills before your committee, I declare that no further Federal legislation will serve any worthwhile purpose on race relations in the South. If you want to spend sometime on bad race relations, we strongly recommend that you go into other parts of the Nation where race riots and incidents are almost everyday news occurrences. We suggest that you look into teenage terrorism, and adult terrorism, among the melting pots of such large cities as New York, Philadelphia, Detroit, and Chicago. You find none of this mob racial unrest in South Carolina.

I like to point with pride to the fact that, after all of the sound and fury stirred up by propagandists from outside, the real proof of the solid friendship among the races in the South has been fully proven by the fact that we continue to live on the best of terms, with our Negro population enjoying full meas-

ures of progress and prosperity. We have more Negro teachers, doctors, businessmen, home and automobile owners, and otherwise successful Negro citizens per square mile in South Carolina than will be found in any other State of the Nation outside of the South.

Since most of the racial hullabaloo has originated and has been tragically exploited by irresponsible political opportunists outside of the South, I have placed heavy emphasis upon the misguided political aspects, because that is where it belongs.

Concluding, I wish to point out respectfully that my 45 years of continuous political service and experience dates back to the days of men like Woodrow Wilson, William Jennings Bryan, Champ Clark, and many other notable figures. Never during all of the time of those strong men in the Democratic Party was there any evidence of any desire, just for political purposes, to single out any section of the Nation for such political skullduggery.

And I charge that when any of you from the rest of the country deliberately agitate such issues for political gain, you are being both unwise and unpatriotic. You are doing the Negro and other racial minorities, all of whom live in peaceful and happy circumstances in the South, an enormous injustice. You are striking at the very roots of individual freedom—the kind of freedom which has brought together from all over the world so many citizens of different races and nationalities into a nation which stands as a symbol of individual freedom for the rest of the world—a world which is suffering in so many areas from so many shortcomings and hatreds which do not now exist in this country.

I urge you on this committee and all Members of Congress to consider well the present happy and harmonious life of all Southern people before you make any more false moves under the pressure of political opportunists, misguided do-gooders or others who either do not care about the South, or who would deliberately destroy the well-being of our people, for some selfish reason which has nothing to do with the real peace and progress of the Negro race in the South.

STATEMENT OF L. MARION GRESSETTE AND ROBERT E. MCNAIR, CHAIRMEN OF THE JUDICIARY COMMITTEES OF SOUTH CAROLINA STATE SENATE AND HOUSE OF REPRESENTATIVES, RESPECTIVELY, AND THOMAS H. POPE, CHAIRMAN OF THE SOUTH CAROLINA STATE DEMOCRATIC EXECUTIVE COMMITTEE

Mr. Chairman and gentlemen, we appear here primarily as citizens of the United States, for the preservation of the Republic is a cause that should be uppermost in the minds of all of us. And as advocates of the preservation of the rights and powers of the States, we believe we serve that cause above all others.

This Nation was founded upon a covenant among 13 sovereign States which banded themselves together to provide for the common defense and to advance the common welfare. To do this, they conferred certain powers upon the central Government, mainly to present a united front against the enemy from without and regulate such internal matters as interstate commerce.

But they specifically reserved unto themselves all other powers. They took definite steps to guard against the development of a despotic Federal Government. In clear and unmistakable language, they said that all powers not delegated to the Federal Government were reserved to the States and ultimately to the people. The constitution of our State contains a similar clause, saying, in so many words, that the people have the power at any time to change the form of their government.

And as life long residents of the State of South Carolina and as present and former members of its general assembly, we know they can do it, for we have seen it done many times. The people of South Carolina are a proud people and they take their government seriously. They have amended their constitution many times.

Furthermore, no citizen of South Carolina is denied the ballot by reason of race, color, religion, or national origin. Some years ago, our State, by action of the general assembly and by overwhelming vote of the people removed from the constitution the so-called poll tax requirement for voting. Anyone who meets the reasonable minimum requirements as set forth in the Constitution is allowed to vote—and we are proud to say that most of our citizens vote their consciences rather than the dictates of some pressure group.

It is claimed by the advocates of the so-called civil rights legislation that their main purpose is to insure to all people the right to vote. Our State already has insured that right, and it is protecting it in a most zealous manner. So is every other State of the Union. So wherein lies the need for the bills under consideration here today?

The obvious answer is that they are not needed.

Our State has on its statute books ample laws for the protection of the rights of all of its people. Anyone who intimidates, threatens, or interferes with the rights of another is subject to severe penalties.

Our State has all but outlawed clandestine organizations formed for the purpose of intimidating others or committing violence against anyone. And there are in our penitentiary persons who have been convicted by South Carolina juries in State courts of violating these statutes. It is our purpose to prevent extremism and violence of all sorts, from whatever motive they may stem.

And the peace and good order among our people, the absence of violent agitation and disturbance is evidence enough that it is working.

Let's face the bald facts about the proposed legislation. Its sole purpose is to advance the political careers of those who have become subservient to a coalition of minorities by seeking to further the cause of integration of the races. It is that, and nothing more.

We in South Carolina, and in other States similarly situated, are doing all in our power to advance the best interests of both races. And we know from generations of practical experience that, now and in the foreseeable future, that cause can best be served on a basis of equal opportunity provided within a framework of segregation. We do not have interracial gang wars in our State, and we do not intend to have them. We are taking positive steps to prevent them by giving all of our people something better than an incentive for social strife in the pursuit of a false goal.

We are submitting as part of our testimony two documents taken from the official archives of the government of our State.

The first of these is the Sixth Interim Report of South Carolina's Special School Committee. This group was created in 1951 to study the possible results of the decisions of the United States Supreme Court in the public education cases and to recommend courses of action to meet the problems that were sure to arise.

Even a cursory reading of this report should reveal that it is the firm purpose of our State to avoid arousing passions and to allay the fears and racial hatreds which have been caused by actions of the Federal courts and the Congress of the United States. This report shows also that public education has continued to make progress in South Carolina, even while it has been damaged by racial feuds in other areas, most especially in those which are loudest in their demands that the South change its pattern of living.

The second document we offer is a joint resolution unanimously adopted by the General Assembly of South Carolina on March 15, 1956.

That resolution asserts the intention of the State of South Carolina to "exercise all powers reserved to it, to protect its sovereignty and the rights of its people." More than 3 years have passed since that resolution was adopted, but the temper of our people has not changed.

Mark you well, gentlemen, that statement did not originate in 1956, nor is it merely an idea grabbed from abstract thinking in 1959. It goes back to the very beginning of the Republic itself. It is a restatement of the principles enunciated by the men who freed this country from the tyranny of the British crown, the men who shed their blood and gave of their personal property from 1776 onward.

More to the point, it is a restatement of the fundamentals of the Constitution of the United States as written and adopted by the 13 original States, among whom our State is proud to this day to have been a leader. The rights and powers of the States to order as they see fit their own internal affairs is the keystone of the foundation of these United States. Destroy that, and you invite anarchy or, even worse, the absolute tyranny of the demagogue who happens to be able to bind together the votes of enough self-seeking minorities to win power.

In opposing this legislation, we of the South are not fighting a sectional battle; we espouse the cause of national freedom. The measures under consideration may be aimed at us today, but they will apply to all of the 50 States of the Union.

The enabling legislation admitting the last two States to the Union specifically provided that they shall have the power to regulate their schools without Federal intervention. The laws admitting many other States after the Union was formed contain similar provisions. We, as one of the 13 original States, ask no more than that.

It boils down to this :

This legislation is not sectional in its scope, whatever its intent may be. It will affect every one of the 50 States, and may lead to their destruction. And the citizens of the States whose representatives in the Congress for purely selfish political reasons, are clamoring for its passage will live to see it rise up and haunt them as a real and malevolent Banquo's Ghost.

The CHAIRMAN. Again I want to express my gratitude, and I am sure I speak for the committee, for your patience and your good will.

Governor HOLLINGS. Thank you very much.

The CHAIRMAN. The hearing will stand adjourned until tomorrow at 10 o'clock.

(Whereupon, at 4:55 p.m., the subcommittee recessed, to reconvene at 10 a.m., Wednesday, April 15, 1959.)

CIVIL RIGHTS

WEDNESDAY, APRIL 15, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:05 a.m., in room 346, Old House Office Building, Hon. Emanuel Celler presiding.

Present: Representatives Celler (chairman), McCulloch, Meader, Rodino, Rogers, Holtzman, and Toll.

Also present: William R. Foley, general counsel of the subcommittee, and Richard C. Peet, associate counsel.

The CHAIRMAN. The meeting will come to order.

We have with us this morning our distinguished Representative from the State of Mississippi, our good colleague, Representative Frank E. Smith. I will be very happy to hear from you.

STATEMENT BY REPRESENTATIVE FRANK E. SMITH

Mr. SMITH. I appear today in opposition to the mass of so-called civil rights bills that have been introduced. I appear specifically in opposition to any extension of the life of the Civil Rights Commission, and to any new authority for the Attorney General to interfere in issues involving education and elections, both of which have long been accepted as the responsibilities of the States and as matters in which the States have exclusive jurisdiction.

All of these civil rights bills come before the Congress cloaked in self-righteous and pious protestations against bigotry and prejudice by those pressure groups who wave the Constitution on high whenever it suits their purpose but who, to achieve their purpose, would destroy the Constitution by destroying the States.

There is nothing new, certainly, in the recurrent effort to persuade minority segments of society to accept the illusion held out by political and Government leaders that through manmade laws and courts, or military enforcement, will come a better way of life. Inevitably, disaster overtakes such a course.

Thomas Jefferson warned us that it is not by the consolidation or concentration of powers that good government is effected, that were this great country not already divided into States, that division would have to be made, that each might do for itself what concerns itself directly, and what it can do so much better than a distant authority.

Decades passed, and the Nation grew. Along the way, as now, attempts were made to impart to the Federal body the duties and obligations of government reserved to the States and localities.

Woodrow Wilson reminded us that moral and social questions originally left to the several States for settlement can be draw into the field of Federal authority only at the expense of the self dependence and efficiency of the several communities of which our complex body politic is made up. Paternal morals enforced by the judgment and choices of the central authority at Washington do not and cannot create vital habits or methods of life unless sustained by local opinion and purpose, local prejudice and convenience, and only communities capable of taking care of themselves will, taken together, constitute a nation capable of vital action and control.

The ceaseless clamor for legislation in this field repudiates the counsel, the wisdom, and the experience of the great and hallowed leaders who through the years brought this country to its present imminence, leaders who practiced what they preached and are revered by the country they served.

The thinking people in every State, regardless of location, concede that members of so-called minority races are entitled to have the rights guaranteed to them by the Federal and State constitutions properly protected; however, I do not think that any right thinking person from any State in this Union is going to contend that minority groups have paramount rights to the exclusion of the majority.

We have in our political system a Government of the United States and a government of each of the several States. Each of these governments is distinct from the other, and each has citizens of its own who owe it allegiance and whose rights, within its jurisdiction, it must protect. The same person may be at the same time a citizen of the United States and a citizen of a State, but his rights of citizenship under one of those governments will be different from those he has under the other. The Government of the United States is one of delegated powers alone. Equality, not identity, of rights and privileges is what is guaranteed to the citizen of the United States.

I have opposed in the past, and I oppose today, enactment of legislation to expand the Federal authority over matters such as education and elections, which have historically been within the jurisdiction of the States and their citizens. Legislation of this kind speaks of the right to vote as though the Federal Government has unlimited and exclusive jurisdiction in that area. The law is exactly the reverse, because we all know that the time and place and manner of elections, and the qualifications of persons voting, are matters entirely under the control of the several States.

Enactment of bills along these lines would result in intruding the Federal Government in matters which under our Constitution are reserved to the States and the people. The cumulative effect of such an extension of Federal power is unjustified, even dangerous. The Federal-State balance has already been upset enough. It is impossible to predict accurately the effect of any one law, but it is unquestionable that each successive whittling down of State authority, whatever the intervening time between steps, will eventually lead to one strong centralized government which, in a country as large and as powerful as ours, will be uncontrollable.

The powers of the Federal Government are defined and limited by the Constitution. The powers not granted to it therein belong to the States and to the people. To confer new or greater power upon the

Federal Government, you must take it from the people, to whom it belongs. Whatever high-sounding phrases may be employed to accomplish the transfer, the fact remains that every encroachment upon the power of the people is an encroachment upon the freedom of the people. If we persist in the destruction of freedom in the name of civil rights, we will eventually have no rights at all.

The Civil Rights Commission is a case in point. The Congress is now asked to continue a Commission over which it has no control, which is not required by law to report to the people through their elected representatives, and upon which Congress ill-advisedly conferred a subpoena power which is seldom used by the Congress itself and which it gives to only three of its own committees.

Pressure groups demanded the creation of this costly Commission to run down propaganda and chase gossip relating to alleged infringement upon the right to vote, charging that unwarranted economic pressures were being applied. In the same breath, those groups demanded, and demand still more, substantive legislation. If the Commission was necessary, then broad expansion of substantive civil rights legislation was not, and is not, necessary. If conditions justify substantive legislation, then the Commission is useless and unnecessary, and of itself constitutes unwarranted economic pressure on the back of the already overburdened American taxpayer.

Congress yielded to the pressure groups and created the Civil Rights Commission; fortunately, Congress limited its life to 2 years. Now those pressure groups howl for the permanency of the Commission; if they are allowed their way, the 2-year limitation upon its duration will mark its first milestone to perpetuity. The considerations of political expediency which spawned it must not be used to extend it.

The executive branch of government seems, for the most part, to have delivered itself up, or perhaps down, to the philosophy that the bloc votes which can control elections must be appeased at any cost. Even so, the law remained, and until the Supreme Court's decision in the school cases, the people believed the integrity of the law would be maintained.

A court is not concerned with what the law ought to be. Its function is to declare what the law is. Moreover, the law must be characterized by stability if men are to resort to it for rules of conduct. When the Supreme Court of the United States repudiated the construction placed upon the 14th amendment throughout the preceding 86 years, it usurped to all practical intents and purposes the power to amend the Constitution, a power vested by the Constitution in the Congress and the States. Thus the Court itself repudiated the integrity of the law.

In doing so, it ignored the advice given by George Washington to the American people in his Farewell Address. He said, in substance, that if the people of the United States should ever become dissatisfied with any provision of the Constitution, they should change the Constitution by amendment as authorized by the Constitution. He warned us then, and his warning is no less sound for the passing of the years: "But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed."

Judicial usurpation is just as reprehensible as executive or legislative usurpation. Indeed, it is more so, because judges are not subjected to the pressures which play upon executive officers and legislators.

We are now faced with a Court which usurps the legislative power, grounding its decisions not upon what the law is but upon what the Court thinks it ought to be.

As virtually the last stronghold of constitutional government, the Congress must not usurp the power of the people by piecemeal taking from them the powers the Constitution reserved to them, and to them alone. Let us not, for reasons of political expediency, persist in the enactment of legislation productive of discord, hatred, and strife, inimical to the welfare of the Nation and destructive of the freedom of its people.

The CHAIRMAN. We have with us this morning the Honorable Dale Alford, Representative from Arkansas.

We are glad to have you. Have you a prepared statement?

Mr. ALFORD. I have a prepared statement here.

The CHAIRMAN. Do you have copies of it?

Mr. ALFORD. I don't have them. I will have them ready soon.

The CHAIRMAN. All right, you may proceed.

Mr. ALFORD. Thank you, sir.

STATEMENT OF DALE ALFORD, MEMBER OF CONGRESS

Mr. ALFORD. I respectfully wish to submit to this committee the opinion of an American citizen, which, I sincerely believe, represents the opinion of the majority of the people of this country—and we, as Members of Congress, are concerned, or should be concerned, with the opinion of the majority of the people of this country and no other country. This should be above political expediency. Any so-called civil rights measure enacted by this Congress over the laws of the respective States is an absolute violation of States rights. The law of the land is the Constitution of the United States, which derives its authority from the several States.

Proposed civil rights measures violate the ninth amendment which I quote as follows:

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

These measures would violate the 10th amendment which states that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States are reserved to the States respectively, or to the people."

Any so-called civil rights measures can be likened to a sword with two edges, for where in one instance one edge serves a specific purpose, the opposite edge can be turned against its present wielder.

In our beloved country the people are sovereign. And, make no mistake about it, the people of this country—the majority, if you please—will win this fight and this crusade to preserve their individual liberties as guaranteed them under the Constitution. The opinions of members of the Supreme Court do not make the law of the land; the Constitution is the law of the land. Members of Congress are representatives of the people and it is my duty to uphold and maintain the opinion of the majority of the people of my State.

The Constitution is not plastic, it cannot be molded or twisted to suit the political designs of a few. The Supreme Court's decision is not

the law of the land, even though in a case the Court may soundly define the meaning of particular words of the Constitution. It is the Constitution which remains "The supreme law of the land" (article VI), while the Court's decisions and orders in the case control only the parties to that case. The Court has no power to make general rules binding upon the people and governments of the States, nor to amend the Constitution.

The Supreme Court's decisions and orders are in conflict with the Constitution, and do not even exist in the eyes of the Constitution; they are null and void, and they must be treated accordingly by all who are loyal to the Constitution, to the Republic (which depends for existence on a stable Constitution) and to the people's inalienable rights. The same is true regarding anti-Constitution acts, orders, and pronouncements of other officials, notably Federal judges on lower courts and the President and his subordinates, as well as acts of Congress.

The great moral issue today, therefore, is not segregation versus integration in the schools; it is, instead, the issue of the sovereign people and their Constitution versus defaulting public trustees as oath-breaking usurpers. In other words, shall the people and their State governments defend their constitutional rights, or bow down before an anti-Constitution elite enforcing rule by man? Shall we have limited government and rule by law under the Constitution, or usurpers supreme with unlimited power? Shall the Republic endure, or shall we allow its destruction by the weapon customarily used to this end: usurpation. (See Washington's Farewell Address.)

In the famous Dred Scott case in 1856, the Supreme Court declared that sympathy for the slaves could not justify the Court's saying the Constitution means something different from what it was originally intended to mean by the framers and adopters. Likewise today, the prohibition against the Federal Government's having power to control education, schools (so as to be able to decree and enforce integration) under the Constitution, as amended—as defined initially by the Supreme Court in this respect—must be upheld. All morality requires this; the moral leaders (such as clergy) and idealists in general, above all others, must support this conclusion. Otherwise they are guilty of debasing the morality and ideals they profess to uphold through subscribing in effect to the antimoral precept that the end justifies the means, which spells intellectual and moral bankruptcy. If any change be needed, as the people see it, they can make it—by amendment.

As to Federal usurpation of power concerning the schools of a State, its Government (particularly legislature, with controlling power) must therefore take a firm stand (correcting past errors accordingly) to proclaim that anti-Constitution decisions and orders, judicial and executive, are null and void and will be treated accordingly. We must stop evasive actions and programs designed to "get around" such null and void decisions and orders, because these are unnecessary and confusing due to implying that these decisions and orders have constitutional validity, which is not true. We must make sure that any proposed remedial amendment of the Constitution expressly asserts that it is merely confirming the States' possession of—not giving anew—power already theirs under the constitution as amended and as initially defined by the Supreme Court. We must

proclaim and pass binding laws accordingly, that the State and all subordinate governments and all citizens must and will respect the constitutions of the United States and of the State; all officials being sworn to support these constitutions only and not Federal usurpers (President or judges or Congress). We must require by law that all officials, from the Governor down, act accordingly in every respect to oppose any Federal troops used by Federal usurpers as contemplated by the framers and adopters. See *The Federalist*, No. 28 by Hamilton, and No. 46 by Madison, for instance. We must oppose any Federal usurpers. Troops and marshals, too, are sworn to support the Constitution only. All in defense of these constitutions, the people's inalienable rights, States' rights, posterity's just heritage, the cause of liberty.

The CHAIRMAN. Doctor Alford, you are a medical man, aren't you?

MR. ALFORD. That is right, sir.

The CHAIRMAN. Would you say that digitalis is medicine that is used for heart disease and that insulin is used for diabetes?

MR. ALFORD. Yes, sir.

The CHAIRMAN. Those are medicines that aid in heart cases and in diabetes cases, is that correct?

MR. ALFORD. Yes, sir.

The CHAIRMAN. And those medicines go direct to the seat of the difficulty, is that correct?

MR. ALFORD. Yes, sir.

The CHAIRMAN. And wouldn't you say that a Supreme Court decision interpreting the part of the Constitution known as the 14th amendment is not unlike those medicines, but here it is medicine for the body politic and you could no more change the course of the result of digitalis or insulin than you can change the course of the medicine called the Supreme Court decisions interpreting the constitutional provisions which are useful for the body politic also; is that a fair statement?

MR. ALFORD. I would like to answer that, if you please, in this manner. Since we have used a medical illustration, that the Constitution of the United States indeed is the heart of the liberty and freedom that is guaranteed to us under the Constitution, and if an improper surgical procedure is placed upon that heart that will destroy the body, the body will indeed be dead and will be submitted to the ravages of the physiological process that creates death, and that is the thing that sincerely concerns us. I would not in one instance wish to appear here for political expediency or for anything other than to sincerely present to you and plead and pray, as it were, that the Members of Congress and the members of this distinguished committee sincerely consider the opinions of the majority of the people of a sovereign State. From the beginning of the foundation of this country, I am sure that we all agree that the people are sovereign, and that this sword of the so-called civil rights measures is indeed a two-edged sword, and is dangerous because in the one instance it may serve as you have indicated here, sir. In the other instance, it may serve otherwise for I cannot strike from my mind and my memory the fact that it was the moderate and so-called intelligent people of various segments that supported Hitler in his rampage throughout the world.

The CHAIRMAN. Now, you repeated a long sentence, the gist of which I ask you to repeat. It was to the effect that a State or majority

of the people of a State could declare null and void certain declarations or acts of the judiciary as well as the executive, am I correct in that statement?

Mr. ALFORD. That is correct, sir. I would like to expand that.

The CHAIRMAN. I will let you expand. We will give you all the time you want. In other words, you say that the people of the State could declare those acts null and void. That is what we call, or you might call nullification, isn't it?

Mr. ALFORD. That is right, sir.

The CHAIRMAN. Now, under what authority would the people of the State have a right to declare the acts of the executive and the judiciary null and void? Under what authority would that be?

Mr. ROGERS. The Constitution.

Mr. ALFORD. Under the authority of the Constitution.

The CHAIRMAN. What authority of the Constitution?

Mr. ALFORD. The Constitution guarantees them the rights as people of a sovereign State. I submit to you, and, as you have indicated earlier, I submit to the distinguished Members of this committee—I am not an attorney and do not set myself up as an authority. I am merely presenting the views, as I said in my prepared remarks, of the majority of the people of my State that this is sincerely our opinion, that it is a very dangerous thing for the opinions of nine men, for example, to be considered the law of the land; that the law of the land, States rights and constitutional government has made this the greatest country on earth for the people of this country, regardless of their race. I respectfully submit that we are pleading for good will among all races. We decry the fact that they are using one social segment against another or one racial group against another racial group. We, with all our heart and soul, know that this racial segregation is dangerous for the foundation of this country and believe that this is one of the arms that would be used against our country to destroy our democracy.

The CHAIRMAN. May I just finish my thought? I recognize you are not an attorney, and I don't want to press you too hard on the subject of the legal aspects of this matter, but you do raise legal questions when you toy with those phrases.

Mr. ALFORD. That is right, sir.

The CHAIRMAN. Therefore you have to expect that you will be asked the reason why you come to such conclusions or why you borrow those phrases and use them. You say the State or the people of a State has a right to nullify, to indulge in what we call nullification. I am trying to get the basis for it. You can't fall back on the fact that you are not a lawyer. You have used that phrase. Now, what is the basis for it? You have given us a long explanation which is a sort of a diversionary tactics. It is not a responsive answer at all. I will try to help you. There is what is known as the reserve powers. In other words, those powers which are not granted to the Federal Government are reserved to the States; is that correct; or don't you understand that?

Mr. ALFORD. I do understand that, sir. I would like to answer your original question.

The CHAIRMAN. I didn't ask you a question. I didn't propound that question to get an answer at that moment. I will let you do it later.

You have these reserve powers to the State. I take it that you feel that under those reserve powers the sovereign State of Arkansas can do all and sundry with reference to schools and so forth, but there is another provision in the Constitution called the 14th amendment, which puts brakes and restraints on those reserve powers in the States, and it is the 14th amendment that was interpreted by the Supreme Court to say that the State of Arkansas or other States just can't have segregated schools, and that doctrine separate but equal was a violation of the 14th amendment which in turn restricted the sovereign people of the State of Arkansas. Now, that is the gist of the decision, Doctor. I take it that you understand that, do you not?

Mr. ALFORD. I do, sir.

The CHAIRMAN. Now, if that is the decision, how can the State of Arkansas say that the Supreme Court says the Constitution shall be a dead letter, null and void? On what basis can they say a thing like that?

Mr. ALFORD. We get into the matter of opinions and into the matter of semantics to a certain extent in the definition of words, because I sincerely believe in States rights as a student of American history—that is my basis. You asked on what basis. On studying the foundation of this country when the territorial governments formed the Federation of these States, the Constitution of the United States derived its powers from the several States, and that is why we have the United States. The Federal Government derives its power from the States of these United States, and that is the basis on which this country was founded.

The CHAIRMAN. But the States gave up their power in certain respects in connection with the 14th amendment. The States says, we won't say to the Federal authorities that we will not do certain things, that we will provide for due process, that we can't do anything that is against due process, we will provide for equal protection of the law and not do anything that runs counter to due protection of the law. The States yielded that power to the Federal Government or to the people of the entire Nation, your State as well as the others. Now you want to reach out and grab it back again.

Mr. ALFORD. I would like to say to the chairman as a question: Would you not agree that there are certain powers that were reserved to the States under the Constitution.

The CHAIRMAN. That there are or are not?

Mr. ALFORD. That there are powers which the States have reserved to them?

The CHAIRMAN. Yes, that is right.

Mr. ALFORD. And I am giving opinion. My personal opinion is that the public schools of this country have been the greatest bulwark for democracy that we have had, and that those schools have not been specifically identified under the Constitution and that those powers are reserved to the States to operate their own tax-supported institutions, and that is the basis for my argument this morning.

The CHAIRMAN. But you must exercise that State power under the reserve clause within the restraints of the 14th amendment, which among other things provides for equal protection of the law. Let me ask you this, Doctor. Do you think we should have a Supreme Court?

Mr. ALFORD. There is no question about it. I sincerely believe that the executive, judicial, and legislative branches of this government are essential.

The CHAIRMAN. Do you think you have a right to accept those decisions of the Supreme Court that you like and you have a right to reject those decisions of the Supreme Court that you don't like?

Mr. ALFORD. My promise that I have stated in the prepared remarks this morning was based upon the fact, Mr. Chairman, that this government is a rule by law and not a rule by man, and it is strange, indeed, that this has been the law of the land for many, many years until May 17, 1954, when that was changed.

Mr. McCULLOCH. Mr. Chairman, I would like to ask a question right on that point, and I ask this having heard you say that you are a medical doctor and haven't been schooled in the law. I ask this question in a very friendly manner and in my opinion it gets to the heart of one of the questions with which this committee is confronted. This is the question: Is it your feeling, Doctor, or your opinion as a layman, that an unreversed judgment or decree of the Supreme Court of the United States of America is not the supreme law of the land?

Mr. ALFORD. It is my opinion that the supreme law of the land is the Constitution.

Mr. HOLTZMAN. Will the gentleman yield?

The CHAIRMAN. Yes.

Mr. HOLTZMAN. Now, Dr. Alford, you have been talking about the Constitution, and we all agree with you that the Constitution is the law of the land, the basic fundamental law of the land. You have also said that you believe in the system of checks and balances provided for under the Constitution?

Mr. ALFORD. That is right.

Mr. HOLTZMAN. And that includes the Supreme Court of the United States, does it not?

Mr. ALFORD. That is right, sir.

Mr. HOLTZMAN. Now, we get back to the question that my colleague asked you. Is it your impression that a judgment or decree unreversed or not stayed is not the law of the land at the time even though it may not suit your thinking?

Mr. ALFORD. I can answer that by one of the sentences from my original statement here this morning, sir, in which I said that the Constitution is not plastic. It cannot be molded or twisted to suit the political design or opinion of a few people. If it has been the law of the land these many years, why suddenly in an overnight decision does the law of the land change? That is my question.

Mr. McCULLOCH. Mr. Chairman, I think the question propounded by the witness is self answered, and I should like to go on with this question, and then I shall yield to my very learned colleague.

Now, Dr. Alford, don't you really believe that it is the duty of every person and every political subdivision in the United States of America to abide by an unreversed, unstayed judgment or decree of the Supreme Court of the United States?

Mr. ALFORD. I believe in rule by law in these United States.

Mr. McCULLOCH. If the people of America and if the political subdivisions of America fail, neglect, and refuse to abide by an unreversed, unstayed judgment or decree of the Supreme Court of the

United States, aren't we apt to have rule by anarchy rather than rule by law in our country?

Mr. ALFORD. I would like to answer my distinguished colleague in like manner. I believe, and that is my opinion, of course, only mine, that you have answered your question, and that is through the method that we now see before our country today, that we could have dictatorial powers by judicial fiat and that the people of this country, the freedoms of the people of this country, their liberties as guaranteed to us under the Constitution, will be destroyed.

Mr. McCULLOCH. But, Doctor, we have a remedy to correct that situation the moment decrees or judgments of the Supreme Court of the United States become intolerable or are contrary to the wishes of the majority of the people of this country. We have a way under the Constitution clearly chartered to reverse and correct, in accordance with the views of the majority, the conditions which they find intolerable, do we not?

Mr. ALFORD. I think that is a wonderful statement.

Mr. McCULLOCH. Dr. Alford, shouldn't it always be the policy and the procedure of Americans to change the laws when they do not meet our approval?

Mr. ALFORD. Indeed, I think that what the gentleman has said is the proper way, and that in this instance that is what we have now seen.

Of course, as we all realize, there are many differences of opinion, but I believe in all sincerity, from what I have gathered from my mail in this short period of time in which I have been projected on the national scene relative to this issue that the majority of the people of the United States feel that this is wrong, and I believe just as the distinguished gentleman has said, that the people of the United States can change this and that I merely appear here this morning to show that in all sincerity and all good will the people of the United States believe this, and that we as holders of an office must recognize the opinions of the majority, for, if we do not recognize the opinion of the majority of the people, this two-edged sword can work against a particular minority on another occasion if we resort to measures to be passed that would give police powers in effect that would override the powers of trial by jury and States rights.

Mr. RODINO. Dr. Alford, recognizing the fact that you are not an attorney and that you are proceeding more or less on a general philosophical basis here, and you are, of course, interested in doing that which you feel is actually best for our country and best for your State.

Mr. ALFORD. That is absolutely correct, sir.

Mr. RODINO. Now, I heard you state awhile ago that you felt that the people would change those things that you felt were wrong. Now, I believe you stated that, did you not?

Mr. ALFORD. I am sure I must have said that if the gentleman recalls that. Yes, that is right.

Mr. RODINO. I believe that that was in effect what you attempted to say, that if certain things were wrong that the people could change that. Of course, I assume that when you are talking about the people, you are talking now about the United States because you said that a majority of the people you felt were not in favor of this type of law. Is that right?

Mr. ALFORD. That is right, sir. I believe that we should recognize the majority opinion of a given State. In other words, may I say in this manner—

Mr. RODINO. We are talking now about the State. You see, Dr. Alford, what I am trying to get at here is this: I believe that there must be a fundamental difference in the interpretation of the 14th amendment because your approach seems to be entirely different from the approach some of us may take in that we feel than when we interpret the 14th amendment why it means equal protection of the laws for all of us, giving to the United States the right to equally protect the citizens of the United States and of the State. Now, however, your approach seems to be entirely different. Your approach seems to be, well, we interpret it this way, and therefore I doubt frankly that we are ever going to be able to reconcile the differences of disagreement in that area because it is an entirely different philosophy.

Now, I respect the fact that you people are intimately acquainted with the problems that are local to you, but when those problems affect the whole United States, then I think, and this is not now basing it just on the law, then I think that we have an obligation of responsibility to change those laws.

Mr. ALFORD. I appreciate the statement that the gentleman has made, and as you have indicated I agree with the statement that we as people of the United States—there again I must refer to my opinion as a layman—that we as States give the powers to the Federal Government, and that we are well aware, and we hope that many of the people, I hope that you gentlemen this morning, you see, will be keenly conscious of the dangers that are apparent here when this has been the law of the land since the founding of this country, but since May 17, 1954, that nine men can overturn what has been the law of the land.

Mr. RODINO. In other words, you mean to say that it was the law of the land that there be always separate facilities for people of a different race, of a different color; is that what you are implying?

Mr. ALFORD. That was the opinion that was given, I believe, in 1896.

Mr. RODINO. Right. Now coming to that, this opinion then which was consistent with your thinking because you say it was the law of the land, after the Supreme Court ruling of 1954, in your mind and in your way of thinking, no longer, despite the fact that now the Supreme Court ruled otherwise, you say that this is no longer the law of the land.

Mr. ALFORD. I am well aware of what the gentleman says, and, of course, in my prepared remarks earlier this morning, I did not refer to that particular decision, but went right back to the Constitution itself, and in thinking in terms of the philosophy of government of the mind of the people who founded our Government, and may I respectfully submit here this morning that I am no constitutional lawyer obviously and do not for a moment present myself as an authority on the Constitution, but as a layman, as a citizen sincerely interested in the welfare of the people of this country, I believe with all my heart that this is a very dangerous precedent we are setting if we enact measures, getting away from the Constitution for just a moment, if we as a Congress enact measures that will go down into the States and override the powers of a State. I think that is a very dangerous thing, and that the majority of the people of a given State should govern. I do not think, for example, that we in my State should try to tell you

in your State how you should run a given thing. That is the American way, as I interpret it. For example, it has been mentioned here this morning by our distinguished chairman, the State of Arkansas—and I may say that I think Arkansas should be complimented and I think many, many people throughout the land do compliment my State on the progress that they have made.

The CHAIRMAN. Are the public schools closed in Arkansas?

Mr. ALFORD. At the moment, yes. May I complete the statement?

The CHAIRMAN. Do you think that Arkansas should be complimented on closing its public schools?

Mr. ALFORD. Sir, that is a matter of opinion, and I do, because we feel that we are loyal Americans upholding a tradition and the law of the land, which is the Constitution, but may I go on with my thought here for a moment?

The CHAIRMAN. Just a moment. I would like to get your answer to that. Don't you think that you are now causing oppression of a great segment of your population by destroying the public school system, by closing its doors, and are you not creating great economic detriment to the State of Arkansas by closing your schools, and aren't you setting up a privileged class, those among the youths whose parents can afford to send them to private schools?

Mr. ALFORD. Mr. Chairman, I think that is a horrible thing that exists in this country today, but we in Arkansas did not start this whole procedure. That began with the nine men on the Supreme Court, who are mortal human beings, and we believe that they are absolutely entirely wrong in their opinion.

The CHAIRMAN. As to those nine men, in 1896 they rendered a decision to the effect that separate but equal schools, the separate but equal doctrine was acceptable and constitutional; is that correct?

Mr. ALFORD. That is right, sir.

The CHAIRMAN. In other words, you accepted that decision of those nine men then. You approve of that decision, do you not? You approve of the decision of the Supreme Court in 1896.

Mr. ALFORD. Mr. Chairman, I approve of the strict adherence to the Constitution of the United States, and I approve—

The CHAIRMAN. But you say that the nine men strictly adhered to the Constitution of the United States when they rendered that opinion in 1896.

Mr. ALFORD. Yes, sir; based upon the following: May I repeat my statement I made earlier this morning?

The CHAIRMAN. You can have an opportunity to expand after this. In other words, you say that the opinion of these nine men of the Supreme Court interpreting the Constitution was proper and that decision interpreted the 14th amendment and upheld the doctrine of separate but equal. Now, in 1954 the nine men of the Supreme Court rendered another decision interpreting the Constitution, and they held that separate but equal is not in accordance with the 14th amendment, and therefore you repudiate the decision of those nine men. In the first instance you are willing to accept the decision, and in the second instance you reject it; is that correct?

Mr. ALFORD. Mr. Chairman, I respectfully do not admit to the statement which you have given. May I make my own statement?

The CHAIRMAN. You give us your view of it.

Mr. ALFORD. I would like to go back to the original statement in my remarks where I said that in the famous Dred Scott decision in 1856 the Supreme Court declared that sympathy for the slaves could not justify the courts saying that the Constitution means something different from what it was originally intended to mean by the framers and adopters. That is in answer to your question. I was making a statement relative to the State of Arkansas, and if I may I would like to go on with that thought.

The CHAIRMAN. We want to give you free rein to say anything you wish.

Mr. ALFORD. I am sincere in this. I am not trying to make political capital out of the opportunity of appearing before this distinguished committee. I really believe that I am serving a purpose as a loyal American when I respectfully call attention to the dangers that are inherent in the decisions of the Supreme Court in the past few years.

I said a moment ago that I think that my State should be complimented for the progress that they have made under the traditional American way. In our medical school, where I am still a member of the faculty, we have had members of all races. There are young men that have gone out from that medical college to all parts of this country, even into your own city. I have friends who are practicing medicine there today that were educated by the medical college in my State. We have all races, and there is a feeling of good will that exists there, and I respectfully submit that it was by process of evolution that this was accomplished. You cannot legislate a man's morals. You cannot legislate social change. So I respectfully submit to this committee this morning that when we are reviewing measures that are submitted and come into your committee, for you to vote upon in this Congress, that we bear in mind what is best for all the people of this country, all the people regardless of race, as to a feeling of good will as to what will accomplish the results that you or I, whatever our desire may be. And, of course, we are all assuming that we are more interested in the welfare of America and the American way than anything else.

Mr. HOLTZMAN. Mr. Chairman, I would like to ask our colleague whether he thinks it is more dangerous for nine men to interpret the Constitution of the United States than it is for a State to defy or nullify the decision of those nine men who constitute the Supreme Court of the United States.

Mr. ALFORD. As I have stated before, I would have to answer that by saying that these nine men are men just as you and I.

Mr. HOLTZMAN. Just as the individuals in the State are; is that correct?

Mr. ALFORD. American citizens. That, as we were forewarned by Thomas Jefferson himself, if our situation so exists that the rule by law can be overturned by rule by men.

Mr. HOLTZMAN. Would you yield at that point? Rule by law means the Constitution and the interpretations of the Supreme Court. Can we get that straight once and for all, Mr. Alford, that rule by law means the basic Constitution and the interpretations? Would that be a fair statement?

Mr. ALFORD. I think that is a fair statement that rule by the Constitution is the law of the land, but that the Constitution of the United

States receives its power from the people. In talking of government, in this country until the present time the majority of the people are the ones who have been sovereign.

Mr. HOLTZMAN. Now, was that your opinion in the Plessy case? Did you feel that way about the decision in Plessy against Ferguson? That is the separate but equal doctrine.

Mr. ALFORD. I am familiar with that particular case. We will go back again. The premise that I wish to present this morning would be to call attention that somewhere along the line the system of checks and balances must hold because what in one instance——

Mr. HOLTZMAN. Must hold, did you say?

Mr. ALFORD. Yes. The system in one instance that might appear to uphold a minority could in another instance work against them by the same members of a court.

Mr. HOLTZMAN. But it is still the same system, is it not?

Mr. ALFORD. States' rights is still the law of the land.

Mr. HOLTZMAN. It is still the Constitution and the interpretation of the Constitution.

Mr. RODINO. Will the gentleman yield?

Mr. HOLTZMAN. I yield.

Mr. RODINO. Dr. Alford, just a question. I am interested in the way you interpret these things, and you talk about the rule of law and you talk about the Supreme Court. Isn't the Supreme Court the Tribunal which interprets our Constitution?

Mr. ALFORD. Now, I am sure——

Mr. RODINO. Under the system of checks and balances which you talked about.

Mr. ALFORD. I certainly agree that the American system is the judiciary.

Mr. RODINO. Let me just ask you to answer that question. I am sure you can say yes or no there. Is the Supreme Court the tribunal which under our system of checks and balances interprets our Constitution?

Mr. ALFORD. The Supreme Court interprets our Constitution, but in the same instance the members of the Supreme Court and the Constitution of the United States receive its power from the support of all of the States of the Union which are supposed to represent the majority opinion of the people of this country.

The CHAIRMAN. Well, I think we have had an elucidation of your views and you have been very patient with the questions of the members, and we thank you very much, Congressman.

Mr. ALFORD. Mr. Chairman, may I say to you, sir, and the members of this committee, you have been very kind and it is a pleasure to have appeared before you, sir. Thank you.

The CHAIRMAN. Our next witness is the Honorable Ralph Odum, assistant attorney general of Florida, and, as I understand, a Representative from Florida will introduce you.

Mr. HALEY. Mr. Chairman and gentlemen of the committee, I am James A. Haley, a Member of Congress from the Seventh District of Florida. Our senior member of the delegation, Mr. Sikes, Congressman Sikes, wanted to be heard and have this honor, but I would like to introduce to you the Honorable Ralph Odum, assistant attorney general of the State of Florida and a man who we think probably more

clearly represents the views of Florida than most any man in this very vital question that is before us this morning, Mr. Ralph Odum, attorney general of Florida.

The CHAIRMAN. We are very glad to hear from you, Mr. Odum.

**STATEMENT OF HON. RALPH ODUM, ASSISTANT ATTORNEY
GENERAL, FLORIDA**

Mr. ODUM. Mr. Chairman and gentlemen: It is a great honor for me to appear here today.

The CHAIRMAN. You may be seated, if you wish.

Mr. ODUM. Thank you.

I have copies of this statement. I am honored that you permit me to come up here and make this statement. I would like to say this, that the attorney general of Florida, Mr. Richard Ervin, wanted to come personally.

I think that these bills that you are considering are of great importance to this country.

The CHAIRMAN. Present our compliments to the attorney general and tell him we regret he is unable to come, but tell him I am sure he has a very good substitute.

Mr. ODUM. Thank you, sir.

We recognize that it would be impractical to undertake a detailed legal analysis of each of the 17 Senate bills relating to civil rights now being considered by this committee. We have considered 17 of them. There may be others pending we are not aware of.

The CHAIRMAN. Don't treat us as stepchildren. We consider House bills and not Senate bills.

Mr. ODUM. That is what I mean. There may be bills we haven't gotten copies of, but we have gotten all we know about.

Although it is to be presumed that the courts would in due time correct unconstitutional enactments, we believe that Congress would not wittingly adopt laws which cannot be sustained and could only result in unnecessary litigation which would do harm to the public in general.

We think the more immediate and urgent questions involved relate to the necessity and wisdom of the whole group of legislative proposals confronting you.

I believe that when the information developed by the Federal Civil Rights Commission is made available to you it will indicate that in areas such as Oklahoma, where some school integration has been accomplished peacefully, it resulted from the efforts of local citizens.

In all likelihood, the outside influence, if it had existed, of Federal agencies and funds as contemplated in some of the bills before you, would have acted as a deterrent in solving the problems involved in those areas. The logical effect of Federal administrative pressure exerted from the outside would have been to relieve the local community of responsibility and to create feelings of resentment among local people.

We are pleased to endorse and support some of the statements in this regard which Attorney General William P. Rogers is reported to have made to the House of Representatives Judiciary Subcommittee on March 11.

According to the Washington Post and Times Herald of Thursday March 12, 1959, Attorney General Rogers told you:

It might do more harm than good at the moment to give the Justice Department power to initiate court suits to force school desegregation.

We have to be pretty mature in our judgment as to whether legislation which seems to help civil rights really would have that effect. I doubt that part III would now. The image of the Federal Government trying to dominate the States could tend to harden resistance. In light of Virginia's experience, I think we should keep our minds open and wait.

I'm not in favor of proceeding slowly—

said Rogers.

I'm in favor of proceeding as fast as we can, intelligently. Sometimes progress can be made faster without litigation. If you have everyone in a State against you, you can't do much law enforcement that isn't pretty disastrous.

We also heartily endorse certain statements attributed to Secretary of Health, Education, and Welfare Arthur S. Flemming when testifying before the same House subcommittee on March 12. According to the Washington Evening Star of March 13, 1959, Secretary Flemming—

warned yesterday against legislation that would give the executive branch of the Federal Government direct responsibility for carrying out the Supreme Court's school desegregation decision. * * * Mr. Flemming also expressed opposition to cutting off Federal aid for States still practicing segregation.

The Health, Education, and Welfare official said the Supreme Court's decision left Federal district courts the responsibility for determining the speed of desegregation and that in his opinion it should remain there. "Frankly, we are opposed to any action that would shift this responsibility to the executive branch," Mr. Flemming testified.

Both Attorney General Rogers and Secretary Flemming apparently did speak in support of other civil rights proposals such as financial and technical assistance to communities upon their request in carrying out school desegregation.

We respectfully suggest, however, that the same logic which prompted caution on the part of both officials on some phases of the civil rights legislation is equally applicable to all of it.

Mr. McCULLOCH. Now I would like to ask the Attorney General a question right there. Do you think it is necessary that we proceed with the same care and caution in insuring or attempting to insure the right of franchise that we use in implementing the program of school desegregation.

Mr. ODUM. I think that extreme caution should be urged in this whole area, sir.

Mr. McCULLOCH. I understand that. Do you think there is the same extreme caution necessary in the field of guaranteeing the right of franchise to all qualified citizens that there is in the field of forcing immediate school desegregation?

Mr. ODUM. I am not sure I understand your question. I think, as I go along, I will develop our premises that we urge you to exercise caution and avoid creating this picture of Federal domination which will create more resistance than we already have in trying to comply with the Supreme Court decision.

Mr. McCULLOCH. You believe that the right of franchise by all qualified citizens is the very cornerstone of the representative republican government?

Mr. ODUM. By franchise you mean the voting franchise?

Mr. McCULLOCH. That is right.

Mr. ODUM. I don't think we have any particular problem about the voting franchise in Florida, Congressman.

Mr. McCULLOCH. Do you know about the problem in other States?

Mr. ODUM. No, sir. I am here to speak for Florida, not for other States, and I don't know what their problems are and how they go about solving them.

Mr. McCULLOCH. I would like to repeat again the question that I first asked. Do you think that the problem in school desegregation, insofar as the manner in which it is attacked here at the Federal level, is substantially identical with the problem of insuring the voting franchise to all qualified citizens in this country?

Mr. ODUM. I think that there is a great deal of difference in the antagonism created in the two areas. Voting is an impersonal thing to me. There is no social acceptance required. There is nothing except you go vote. Schools involve social acceptance and there I think we do have a terrific problem in Florida.

Mr. McCULLOCH. Thank you, sir. That answers my question. That is very helpful.

The CHAIRMAN. While we are on page 3 of the contents which prompted the questions of our distinguished colleague from Ohio, Mr. McCulloch. I would like to ask you with reference to your statement on page 2. You quote there from the Secretary of Health, Education and Welfare. You say he said the Supreme Court's decision left Federal district courts the responsibility for determining the speed of desegregation and that in his opinion it should remain there.

Now may I ask you this: Do you accept the principle of desegregation by Federal judicial decree?

Mr. ODUM. Well, further on in this statement I will come to this, to our position on that. We think that the Supreme Court made a terrific mistake. I think they are susceptible to error, just as you and I can make errors. However, there is no appeal from the United States Supreme Court as a matter of law. This error that is made may be corrected, I think, in time either by the Court itself or by action of the people properly through amending the Constitution or otherwise. In the meantime there is no appeal from the Supreme Court.

The CHAIRMAN. That is a very fair statement and very well put, and spoken like a true lawyer should speak.

Mr. HOLTZMAN. May I join with you in saying, Mr. Chairman, that the witness has exhibited an honesty that is refreshing and he is making a very fair statement and he is giving us the very best opinion he has.

Mr. ODUM. I would like to repeat, however, we do think the Supreme Court was wrong.

Mr. RODINO. We respect your opinion.

Mr. McCULLOCH. Mr. Chairman, may we go off the record?

The CHAIRMAN. Yes.

(Discussion off the record.)

Mr. ODUM. We respectfully suggest, however—I am repeating the last sentence to catch up the trend of thought—that the same logic which prompted caution on the part of both officials on some phases of the civil rights legislation is equally applicable to all of it. In other words, we think all of the proposed legislation on civil rights

under present conditions will do harm and not good because it will create "the image of the Federal Government trying to dominate the States."

We would like also to commend the statement made by Dr. George Marion Johnson, who is a Negro, in the Washington Evening Star of March 11, 1959:

Named yesterday by President Eisenhower to the Civil Rights Commission to fill the vacancy created by the death of J. Ernest Wilkins, Dr. Johnson is a realist on racial questions who has recognized that laws are not, as he put it, "the ultimate answer to the problem." * * * Dr. Johnson places major importance on "keeping open the lines of communication" between the races in the hope that differences may be ironed out through negotiation and understanding.

Realizing the importance of the position of all three of these Federal officials in an administration committed to school integration, we think it significant that they have felt impelled to caution against some of the precipitate, coercive legislation now being proposed.

If Abraham Lincoln were alive today and confronted with the problem, he might make the same remark which he actually did make to C. A. Dana in 1865: "When you have an elephant by the hind leg, and he is trying to run away, it's best to let him run."

We have not attempted to brief the constitutional aspects of all the bills in question but we do think it appropriate to point out the obvious defects and fallacies in some of the bills.

Senate bill 810 undertakes, among other things, to appropriate \$40 million a year for the next 5 years for grants to areas where desegregation in public education is being carried out.

These grants are to be made "on such terms and conditions as the Secretary shall prescribe."

They may be made for the "construction, enlargement, or alteration of school facilities * * *" or for—

other costs directly related to the process of eliminating segregation in public schools, including the replacement of State payments to a school district or other political subdivision withdrawn because the applicant district or subdivision is eliminating, or is starting to eliminate segregation.

The bill authorizes the Secretary of Health, Education, and Welfare to make plans for desegregation and, after public hearings, to promulgate said plans. If the local school officials do not carry out the plans, the Secretary can turn the matter over to the Attorney General and he in turn is authorized to institute a suit against State or local officials or any individual acting in concert with such officials to enforce compliance with the approved plan.

Mr. McCULLOCH. Now, Mr. Chairman, if I might, I would like to make this comment at this place in the record: The administration bill, neither in the House nor in the Senate, proposes such policy, nor does it propose giving the Secretary of Health, Education, and Welfare those powers. I refer in the House to H.R. 4457 and in the Senate to S. 956, 957, and probably 960. I know the pressure under which the Attorney General works and I quite understand that he could not have had the time to analyze all of these bills, but I would particularly urge him to very carefully study and analyze H.R. 4457, and the three Senate bills which I have mentioned, which in my opinion are temperate and moderate approaches to one of the most difficult questions of our time.

Mr. ODUM. I appreciate that the administration and Attorney General Rogers has already, as I quoted him, opposed some of these ideas, but they are pending in Congress and we felt it necessary to touch on all of these bills that you are considering.

The CHAIRMAN. May I just say this so I won't forget the point: In view of your very fair statement before about the decision of the Supreme Court, how do you reconcile that with a senate concurrent resolution 17-XX for 1956 special session, which bill was passed by the legislature and signed by your government, which resolution nullifies and denounces the usurpation of power by the Supreme Court of the United States.

Mr. ODUM. That is the interposition resolution of the Florida Legislature that you refer to.

The CHAIRMAN. Yes.

Mr. ODUM. Attorney General Ervin wrote an opinion before that resolution was enacted at the request of one of our senators. In that opinion he clearly stated that what is commonly called an interposition resolution is not a law of the State; it is a resolution, an expression of opinion by the legislature. It doesn't have the effect of a State law. It does have the effect, and we think it was proper because that is the way the legislature felt, to express as strongly as they knew how their opposition and feelings about the Brown decision. It is not nullification is what we are trying to say; it is an expression of the people of Florida through their legislature.

The CHAIRMAN. It is simply letting off a little steam.

Mr. ODUM. I think it is more important than letting off a little steam and I think it should be given grave consideration because that is the way most of the people down there feel. They feel just that strongly about it.

Mr. HOLTZMAN. May I ask a question? I like your quote of Abraham Lincoln. I wonder if Abraham Lincoln were alive and felt the temper of the people in this country, was mindful of the decision of the Supreme Court, whether he would not conclude that integration was as inevitable as our chairman's reelection to Congress and then the administration let him run. What do you think?

Mr. ODUM. I don't know what Abraham Lincoln would say today. I know he was a realist and humanitarian. That is what makes him a great man. He had to deal with problems in his day and age that were pretty terrific, too. I remember one quote from him was that his prime purpose was to save the Union. If he could save the Union by keeping slavery, he would do it, or freeing slaves, he would do it. I think our purpose today is to save this Union and to deal with the thing realistically.

Mr. RODINO. Since my colleague alludes to the statement of Abraham Lincoln to C. A. Dana in 1865 and since you make a point of that and not really facetiously—

Mr. ODUM. It is an attempt to be a little humorous. That is all the significance.

Mr. RODINO. Just to carry it a bit further, what about the situation of the elephant running amuck. If there are many people in the way of that elephant or in front of that elephant, that elephant might trample them down. Do we just let it go?

Mr. ODUM. Analogies can be misleading. This analogy I think is pretty good because, as Attorney General Rogers said, and I quoted him earlier, he said the same thing in a different way:

If you try to force a law when all the people are against you, it can be pretty disastrous.

Mr. RODINO. Can we agree we have no elephants in this subcommittee room?

Mr. ODUM. I don't know how many Republicans we have.

Mr. RODINO. Since it is Republican, I wonder if we might not leave the elephant out.

The CHAIRMAN. May I ask this, Mr. Attorney General: Reading some of the other statutes that were passed by Florida, I find the so-called placement—pupil-placement statute—and its author, Senator Johns, says, and I quote:

Counties that want to keep segregated schools can do so under this bill, S.S. 10, volume 2, No. 1, page 5.

Now this act sets up the county board of education as the authority to assign children to the school as shall be determined by the board to be best adapted or qualified to serve the best interests of the child and of the public school system. The authority of the board is full and complete and its decision as to the enrollment of any pupil in any such school shall be final. That is the usual so-called pupil-placement act, and, as its author stated, the purpose of the act was to keep schools segregated. How can you reconcile that with the very fine statement you made before?

Mr. ODUM. Well, you are quoting one man's opinion. The act itself is similar to Alabama's school-placement act and the North Carolina act. The U.S. Supreme Court has upheld the validity of the Alabama act, which is pretty much the same as ours.

For your information on that, this act has been used in one instance, the Dade County School Board, which is Miami, has approved the application of, I think it is four Negro children to start to white school next September, the Orchard Village school. What is going to happen next September we don't know, but at least they have tried to follow that act to that extent. They applied and the application was granted.

The CHAIRMAN. Do you think Florida will progressively permit more and more Negroes to enter these white schools?

Mr. ODUM. I don't know, sir, what is going to happen in Florida. All I know now is that the opposition to integration is tremendous and that yet we are faced, on the one hand, with the Supreme Court's ruling and, on the other, with public opinion. Time alone, I think, is the answer to that, the answer to what pattern is going to evolve. No one, unless he is endowed with the gift of prophesy, can say what is going to happen.

The CHAIRMAN. It is true, is it not, that these pupil-placement statutes in the various States were passed after the 1954 decision? Isn't that correct?

Mr. ODUM. Ours was, yes.

The CHAIRMAN. Beg pardon?

Mr. ODUM. Ours was. All of them I think were. The purpose of all these school placement acts—they do not mention race—is to set

criteria by which children are assigned and various other things; scholastic standing and psychological factors and so forth, but on the face of the act there is no discrimination by race and we have made this statement in speeches in Florida. I have made them with the approval of our attorney general, that if these acts are used to be a complete bar to all integration, well I think the courts will knock them out in their application. In fact, the courts have said so. If they are used as they are written, to permit assignment of children on the basis of these criteria, I think the courts will continue to uphold them as they are doing now.

Getting back to this act that we were discussing, the act further authorizes the Attorney General to bring suit in the name of the United States in behalf of anyone who complains that he is being deprived of his right to equal protection of the law by reason of race, color, religion, or national origin against any individual. As noted earlier, the Attorney General of the United States has indicated his opposition to such power being placed in his office. In effect, it would provide free legal services by the Government in any dispute between individuals involving religious or racial differences and would tend to foster even more bitterness than already exists.

We think this act goes far beyond the ruling of the U.S. Supreme Court in the Brown case, which simply said that children could not be denied admission to public schools because of their race. It goes far beyond the provisions of the 14th amendment and completely ignores the 10th amendment.

Its ultimate effect would be to place the Federal Government in the position of dominating the public school system and interfering in the private lives of the people in the various States—an image which caused the Attorney General of the United States to speak out firmly against such legislation.

Senate bill 955 provides that—

whoever corruptly, or by threats or force, or by any threatening letter or communication, willfully prevents, obstructs, impedes or interferes with or willfully endeavors to prevent, obstruct, impede or interfere with the due exercise of right or the performance of duties under any order, judgment or decree of a court of the United States which (1) directs that any person or class of persons shall be admitted to any school, or (2) directs that any person or class of persons shall not be denied admission to any school because of race or color, or (3) approves any plan of any State or local agency the effect of which is or will be to permit any person or class of persons to be admitted to any school, shall be fined not more than \$10,000 or imprisoned not more than 2 years, or both.

Under this act it is conceivable a newspaper editor could be fined \$10,000 and sent to prison for 2 years for writing an editorial in which he criticized an integration plan adopted by the local school officials and approved by a Federal court if he threatened to oppose the officials at the next election. This is inconsistent with time-honored procedures and authority of courts to punish persons for contempt.

It seems to us that it must surely be at variance with the first amendment to the Constitution which provides that—

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Senate bill 956 makes it a Federal crime to move in interstate or foreign commerce with intent either (1) to avoid prosecution, or custody, or confinement after conviction, under the laws of the place from which he flees, for willfully damaging or destroying or attempting to damage or destroy by fire or explosive any building, structure, facility, or vehicle, if such building, structure, facility or vehicle is used primarily for religious purposes or for the purposes of public, or private primary, secondary, or higher education or (2) to avoid giving testimony in any criminal proceeding relating to any such offense.

That has to do with blowing up school buildings and churches and so forth.

Mr. McCULLOCH. Mr. Chairman, I would like to ask the attorney general if he would be opposed to that provision of Senate bill 956 which makes it a Federal crime to move in interstate or foreign commerce under the conditions there specified, or which is identical with the provisions in H.R. 4457.

Mr. ODUM. I think my next paragraph or two will answer your question.

Mr. McCULLOCH. All right.

Mr. ODUM. Senate bill 188 makes it a Federal crime to possess or transport explosives with the knowledge or intent that they will be used to destroy buildings and personal property for the purpose of interfering with the use for business, educational, religious, charitable, or civic objectives.

Now this answers, I think, your question, Congressman. Laws such as these appear on the surface to be desirable. Certainly no good citizen is sympathetic with the terrorist who strikes against helpless people or destroys churches and schools.

The people of Florida are well aware of the threat these crimes present to our society and freedom and they demand that every effort be made to apprehend the criminal and to punish him severely.

The mayor of Jacksonville is working with the officials of other southern cities in an effort to deal properly with the problem and to secure the prompt prosecution of these criminals.

Our Florida sheriffs association has asked the Florida Legislature which convened last week to enact more stringent laws to facilitate the apprehension of this kind of loathsome criminal and to make the crime a capital offense. Florida prosecuting attorneys have made a similar recommendation. We believe the other Southern States are moving in the same direction and that there is no valid evidence of a breakdown of local law enforcement in this regard.

Now this is not in my formal statement, but it is true: Our Governor in his message to the legislature recommended stringent laws in this regard and I think the day before yesterday a bill was introduced in our legislature to make the bombing of these buildings subject to the death penalty and so there is great interest and great activity on the State level and I think that is true of other Southern States.

In the absence of a showing that the States are shirking their duty to enforce these criminal laws, there can be no more excuse to make them the responsibility of the Federal Government than other types of heinous crime such as murder, rape, or organized gambling.

Mr. McCULLOCH. Mr. Chairman, I should like to ask the attorney general if he doesn't think there is a bit of difference in the type of

offense that is sought to be remedied by the bills in question and the offenses of murder, rape, or organized gambling. I call to the witness' attention that Federal law making it an offense to cross State lines in kidnapping cases, motor vehicles theft cases, and narcotics, and so on. Mr. Attorney General, aren't there some crimes which in the past have been crimes of purely State nature that now, by reason of modern types of transportation, are most difficult, if not impossible to keep in check by State laws alone and which call for the intervention of the Federal Government in the assistance of the State?

Mr. ODUM. Yes, sir, I think that there are certain types of crimes over which the Federal Government has to exercise jurisdiction.

I think that in the case of narcotics, for example, you have a problem of importing it from other countries and so the Federal Government has a prime responsibility along with the States. Bombing a building is a terrible crime, but it is no worse than murder. The whole point we are trying to make in opposing this is further encroachment on State responsibilities in removing the responsibility from local control. The quotation I am going to read to you is from Mr. J. Edgar Hoover, and I think it is right in point.

Mr. McCULLOCH. I wish to compliment the gentleman, Mr. Chairman, for his general advocacy of the States assuming and acting effectively on responsibilities which have been the States in the past. I believe that Northern States as well as Southern States and local political subdivisions in increasing numbers are unready and unwilling to enforce the laws that have been on their books for years and which have been their responsibility for years. The McClellan hearings have pointed up this problem to any lawyer who has ever graduated from any law school or even read a law book for any time.

Mr. ODUM. I agree with you, sir.

Mr. McCULLOCH. But many States and local enforcement officers have utterly failed in their duty and I think that this is one field where there is justification for the Federal Government acting.

One further question, and this would be very helpful to this committee, I am sure: Do you know whether Florida, any Florida court or the court of any other Southern State has indicted, tried, and convicted a person for the offense which we have been discussing, bombing a school or a place of religious worship?

Mr. ODUM. I don't think we have had a case in Florida, sir. We have had one instance of a bombing in Jacksonville and I don't believe—I may be wrong in this, but I don't believe the criminals were ever found, but I don't think it was because of any lack of interest or effort to find them. It is just that they didn't find them. I don't think the Federal Government would have found them either because it is my impression they were assisting in trying to find them.

Mr. McCULLOCH. I have before me a notation—I don't know how accurate it is, but I would be glad to have you comment on it. This notation shows that James Wellon Johnson Junior High School in Jacksonville, Fla., was dynamited in 1958. Do you know whether anyone was indicted for that offense?

Mr. ODUM. I couldn't say this positively because I am not sure, but I don't believe they ever apprehended the criminal. But I say this: It is not because there was not an effort made. Every effort was made, and I think that probably the FBI tried to help find them, but they just didn't.

Mr. McCULLOCH. And this notation shows a temple was bombed in Miami, Fla., on or about March 1956. Do you know whether anyone was indicted in that case?

Mr. ODUM. As far as I know, they have not found the criminals.

Mr. McCULLOCH. And this memorandum which I have also shows that the Jewish Center in Jacksonville was dynamited April 28, 1958. Do you know whether anyone was indicted for that?

Mr. ODUM. As I said, I don't believe they have ever found the criminals, but I want to emphasize this: It isn't due to lack of diligence or interest or effort from the State officials or the sheriff or any other law enforcement officer, and I am pretty sure that the FBI gave such assistance as they could in trying to find them. It is just they haven't found the criminals, which happens in other kinds of crimes sometimes.

Mr. McCULLOCH. I am very happy to have that explanation because I knew nothing of the facts.

Mr. ODUM. I don't want you to accept this as positive because I haven't kept up with it, but I think I would have heard it if they had found the criminal. I know this: They would have been indicted, and I know our prosecuting attorneys would have made every effort to get a conviction and they would have been just as apt to get a conviction with a Florida jury in a State court as they would in a Federal court with the same people.

Mr. McCULLOCH. Public authorities in my home State of Ohio are ready, willing and anxious to have the FBI come in to help them in certain cases that traditionally were completely local in responsibility. Aren't there some people down there in Florida who are likewise ready, willing and anxious to have the FBI come in to help in these matters? And is not this attitude evidence that there might be justification for such legislation at this time?

Mr. ODUM. No, sir, I don't think so because when I read this statement from Mr. Hoover, I think it will answer what I am talking about. We think we should cooperate and want to cooperate with the FBI. We have the highest regard for it. We think the reason it is a wonderful police organization is because its been limited to a very narrow field of law enforcement and the great responsibility of the law enforcement is right where it should be, at the State and local level. If you ever remove it and put the Federal Government step by step progressively into the field of law enforcement, you are going to weaken the whole structure of law enforcement in this country. That is the point we are making.

Mr. McCULLOCH. I agree with you, but in the bill to which I have referred several times, H.R. 4457, there is no attempt to take the jurisdiction away from the local authorities or to lessen the responsibility for investigation, indictment, and trial. The main effect of the proposal in H.R. 4457 is to apprehend and provide for the trial of fugitive offenders against such laws of the States.

Mr. ODUM. Suppose I read this statement and it may clarify what we are trying to say here.

There is no evidence of an interstate aspect to the crimes in question although there definitely is in the case of organized gambling which investigations of your own committees have disclosed to be operated by national crime syndicates which move at will across the State lines. We think it peculiar and a reflection on the integrity of our State gov-

ernment that the crime of bombing churches and schools should be singled out as a Federal responsibility.

Law enforcement relating to crimes of a local nature is the responsibility of the State. Our system of government has never contemplated that the Federal Government operate a police force which reaches into every community and relieves the local government of authority and duty to protect local citizens against crimes which do not directly involve the Federal Government.

We think J. Edgar Hoover, who heads one of the most efficient and highly regarded law enforcement agencies in the world has well expressed these thoughts and the dangers of a consolidation of police power in his letter of January 1, 1953, to all law enforcement officials.

In his letter, Mr. Hoover said:

In the December 1952, issue of the FBI Law Enforcement Bulletin I discussed some of the reasons why any move to centralize police powers in either a State or Federal agency is unnecessary. It is also my belief that proposals of this kind are ineffective, unrealistic, and, ultimately, dangerous substitutes for the democratic methods of police work now in use.

When any plan leading to consolidation of police power is advanced we will do well to examine it carefully, no matter from what source it originates. Close examination may lead to the discovery of certain basic defects which the proponents of such proposals habitually overlook in their zeal to install an overall law enforcement agency.

One of the results most evident is that the authority of every peace officer in every community would be reduced, if not eventually broken, in favor of a dominating figure or group on the distant State or national level. That official or group might be given the power by law to influence or dictate the selection of officers, the circumstances of their employment and the decisions they make in arresting and prosecuting those who violate the law.

Mr. McCULLOCH. Now, Mr. Chairman, I would like to interrupt again. If my memory serves me correctly, I believe that General Rogers testified that J. Edgar Hoover approved of the approach to the solution of this immediate problem, as set forth in H.R. 4457. In view of the importance of this particular aspect of this problem with which we are confronted, Mr. Chairman, I would like to read two paragraphs from the Attorney General's statement so that our witness might have the advantage of his thinking and then I would like to ask one question. I am now reading and quoting from the written statement made by the Attorney General to this committee on March 11, 1959.

These bombings confront local law enforcement officials with difficult investigation and inspection problems. A bombing is one of the most difficult types of crime to solve. Evidence and clues which might otherwise be available are ordinarily destroyed by the blast, nor does the perpetrator obtain tangible fruits, the sale or disposal of which can be traced. Moreover, since the offense is usually committed at night, there are usually no witnesses. To collect, sift, and analyze whatever physical evidence remains requires not only a great amount of effort and patience, but also expert training, equipment, and experience. Although local officials have been diligent in efforts to apprehend the offenders, it is clear that the interstate aspects of the offense require utilization of the resources and powers of the Federal Government. When it has been requested by the local authorities, the FBI has extended the full use of its laboratory facilities and has rendered effective assistance in a number of bombing instances, including those of Clinton, Tenn. and Atlanta, Ga., Peoria, Ill. and Osage, W. Va.

And I say this parenthetically: In the type of questions I have been asking, I have not tried to infer that only certain States of the Union have offenses committed within their borders. Practically

every State in the Union at some time or other has had such offenses committed within its borders.

I continue the quotation from the Attorney General:

Also, to coordinate efforts to cope with the problem, the FBI has held 176 field conferences with top local law enforcement officials, attended by over 8,000 officers representing 87 local law enforcement agencies. FBI representatives have discussed appropriate techniques for solving these bombings and have outlined the services the Bureau may offer local officials in their investigation. However, there should be a clear and solid jurisdictional basis on which the FBI can proceed in these cases to make an investigation and to apprehend the persons involved.

The fugitive felony approach reflects the basic principle long maintained by the legislative and executive branches of the Federal Government that the FBI is not a national police force and that it does not supersede local law enforcement agencies.

Now my question is in view of that analysis of the provisions in H.R. 4457: Does the witness continue to object to that moderate, yet effective, approach to help solve this great problem in this country?

Mr. ODUM. We think it is another step in the direction of centralizing or putting police powers, investigative police power, in Washington rather than at the local level where they should be. Now we think there should be cooperation always and we should use the fine organization that Mr. Hoover has to assist, as we have been doing.

Mr. McCULLOCH. We are very glad of that, and the record is there. Do you know whether that was the general feeling when the Lindbergh Act was being considered and the Narcotics Act was being considered and the original Fugitive Felon Act was being considered?

Mr. ODUM. Well, I think the Lindbergh Act was one which was emotionally inspired. The people are horrified at this awful crime and it resulted in what was probably an unnecessary act. I don't think it has been used to any great extent.

Mr. McCULLOCH. Do you think there have been any abuses under that act?

Mr. ODUM. Not particularly, but I think if we keep on making more and more crimes Federal responsibility we are going to wind up with no responsibility at the local level and no feeling of responsibility there. They will say that is Washington's problem, not ours. That is the whole point of our opposition to this. We would like to keep responsibility for good government in police work or in any other field right where it is, at the local level, as much as it is possible to do so.

Mr. McCULLOCH. I would like to comment again. The provisions in 4457 do not shift the responsibility nor is there the slightest intention to do so. I would be very happy, able as this witness is or particularly by reason of his ability, if he would study this provision in 4457 and give us a further statement.

The CHAIRMAN. Supplementing this colloquy, at the very beginning of these bombings I contacted Mr. Hoover of the FBI and I thought that it was time that he intervened and actively participated in an endeavor to track down these malefactors and in view of the fact that there might be a spread of bombings.

Mr. Hoover responded announcing practically your attitude, that it didn't seem to him to be the appropriate function of the FBI to participate actively in an endeavor to trace these criminals and other-

wise do what is the duty of the States. He said that all that the FBI should do would be give advice and counsel on the question.

The bombings thereafter became progressively worse in depth, in results, in numbers. It was then that either the White House or the Department of Justice, through the Attorney General, or both at the same time—I don't know which—felt that it was high time for the FBI actually to get down to the bowels of this thing and to help more actively in their advice and counsel to State authorities. I think as a result of the intervention of the FBI we found that there were no more bombs and apparently the intervention of the FBI has had a good effect.

I thought it well to put that statement into the record.

Mr. ODUM. Thank you, sir, and I think that is consistent with what Mr. Hoover said in 1953 in the statement that I am reading to you and I am sure it may have had a salutary effect that they have assisted and I think that is all that is necessary. The States now are becoming more aware of the danger of these things and they are moving to do something about it and there is no reason to think that they won't.

Quoting further from Mr. Hoover's statement:

The excuse often advanced to justify this request for supervisory authority is that it is necessary to correct deficiencies in local law enforcement. Inasmuch as the officer in the community may fail in the proper performance of his duty by falling victim to certain pressures and temptations, the higher arm of government must have the power to take over the job and do it right. This is a novel argument. It assumes that those who hold the reins of higher authority spring from a different breed not subject to the subtle influence of money and corrupt politics. While this may be true in any given case, experience gives us little basis for expecting a constant succession of such conscientious public servants. Should the overriding power of law enforcement be held by a corrupt official, he and his superiors could just as easily reduce, rather than increase, the effectiveness of the local peace officer by subjecting his word to corruption from above in addition to that exerted below.

We have quoted Mr. Hoover at length because his statement is of far-reaching importance.

I believe his convictions on the necessity for keeping responsibility fixed at the local level have made a greater contribution to law enforcement in this country than any other single factor during the shifting political tides of the past several decades.

I think his clarity of understanding of the function of the Federal Government in its relations with local law-enforcement agencies is the cornerstone on which the Federal Bureau of Investigation has been successfully built.

We think Mr. Hoover's logic and fundamental concern in fixing responsibility for good government at the local level should be recognized and adhered to, not only in the field of law enforcement. It is equally important in every other area of governmental activity and responsibility.

Although in many respects we people in Florida, like people everywhere, have "looked at each other with a wild surmise" during the last few years and now we stand "upon a peak in Darien," we feel that in due time we can adjust to this brave new world. But we can do it better without the image of Federal domination or the hair shirt of emotionally inspired Federal laws.

We survived reconstruction and the social adjustment of the past 90 years with the aid of a wise and fair legal doctrine called "separate but equal."

Now that this has been denied us, by a reversal of the U.S. Supreme Court of its own well-established precedent we must find a new way for our people who share the same land but not the same cultural standards, to live together peaceably with a common respect for virtue and mutual tolerance of each other's faults.

With respect to education, we do not know what the answer will be but it may prove to be a combined system of public and private schools. We do not feel that any of the laws proposed here will help and we are sure that some of them will do harm.

We have weathered through the day of the carpetbagger, the times of famine, hurricanes, freezes, high water, and more recently burrowing nematodes, and the NAACP. We are not dismayed and we think Florida has a great future for all our people of every race.

Finally, I believe that racial tolerance and social acceptance must necessarily be freely given and graciously received. They result from the efforts of the humanitarian not of penal codes.

There is reason to think that the yeast of discontent in our dealings with one another is at work throughout the land. But yeast is a delicate substance, easily killed if heated too fast and the loaf will not rise without it.

Many of us feel that the U.S. Supreme Court has made a grievous error in its school integration decision. Although we respect the Court as an institution of government, we do feel free to criticize its opinions. We believe that the right of the people to disagree and to criticize is an essential safeguard to the integrity of a free and just Court.

We hope that Congress will not compound the error of the Court with unwise, unconstitutional and unnecessary enactments which may destroy the patient efforts of those who value democracy more than their personal longings and private prejudices.

The CHAIRMAN. I want to say, Mr. Attorney General, we thank you for your statement. Some of us may not agree with all of your opinions. That is natural. But you have been zealous in your statements; you have been very fair and you have been very honest and that is very illuminating and very welcome.

Mr. McCulloch. Mr. Chairman, I would like to join with your statement.

Mr. Rodino. Mr. Chairman, I would also like to add a statement to that effect and join in that.

Mr. Odum. Thank you. I enjoyed being with you.

The CHAIRMAN. Our last and final witness for the day is Mr. John H. McCray, State chairman, South Carolina Progressive Democratic Organization.

Will you identify the South Carolina Progressive Democratic Organization and tell us what that is?

STATEMENT OF JOHN H. McCRAY, STATE CHAIRMAN, SOUTH CAROLINA PROGRESSIVE DEMOCRATIC ORGANIZATION

Mr. McCray. The South Carolina Progressive Democrats are a subdivision of the Democratic Party of South Carolina.

The CHAIRMAN. It is a subdivision of the Democratic Party?

Mr. McCRAY. It is a subdivision; yes.

The CHAIRMAN. You may proceed and give your name and address.

Mr. McCRAY. My name is John H. McCray. I am State chairman of the South Carolina Progressive Democrats. My residence is Columbia, S.C.

The CHAIRMAN. Have you a prepared statement?

Mr. McCRAY. Mr. Chairman, if it pleases the Chair, we hope to be able to submit it to you.

The CHAIRMAN. Would you raise your voice a little bit?

Mr. McCRAY. We hope to submit it to you a little later on with copies for each person on the committee.

Mr. Chairman, the other honorable members of the committee, on behalf of my associates, the 825,000 other Negro citizens of South Carolina, and the many others in that State who believe substantially as we do on the subject of human rights, I wish to express our gratitude for the opportunity to speak before you.

The members of my délégation were chosen only yesterday during a meeting at Columbia, which was conducted on a statewide level, which was well advertised beforehand and was open to all citizens interested in civil rights in South Carolina. The expenses incurred by the delegations are being paid both by its members and by those attending the public meeting on yesterday, and we wish it known that while we deemed it necessary to come before you, we were convinced that we ought not inflict any expenses incurred upon those of our citizens who may not believe as we do. So we have just arrived in Washington on an early morning train. We didn't arrive in airplanes owned, or paid for, by the State of South Carolina.

Another point of note is that while we are firmly opposed to the abandoned doctrine of "separate but equal" that ideology figures at least twice in our being here.

We are asking of you "equal" attention to what we say; and are forced by circumstances over which we have no control to speak "separately" from another group of South Carolinians professing a deep interest in the same area of civil rights.

Secondly, the fact that we have had to come here in the manner that we have, suggests very clearly, we think, that our governmental leaders in the State of South Carolina don't believe even in the doctrine they say ought to be the general rule and practice—"separate and equal." They made no provisions for any citizens with differing points of view. They changed their professed philosophy, that is separate but equal, to mean "separate and nothing."

But we do not come before you in a spirit of bitterness or censure. We believe firmly and indelibly in freedom. We come before you after years and lifetimes of patience and hope, and in the feeling that when and where you have the complete picture before you, you are not mislead or frightened into setting aside legislation and help your august body can approve which would keep the burning of faith and hope in fellow Americans.

One of America's great problems today is that too much of it has yet to realize that its Negro citizens are now grownups. The Negro doesn't want patronizing. The Negro doesn't want a handout here and there and advised continuously to trust, wait, and pray. Under some of the most adverse circumstances in the history of civilization, the Negro has proved his mettle in every area of activity of mankind.

But he has remained the pawn, the "whipping boy," the human being others considered as an afterthought, if at all.

Our inadequate protection of the rights of Negro citizens, in particular, has both hampered our accomplishments as a Nation and as an international saviour among those nations having large and predominant colored races, and our own unity as one great nation of people.

In 1936, campaigning then for reelection to the U.S. Senate from South Carolina, the Honorable James F. Byrnes, who was later to become a member of the Supreme Court and also Secretary of State, declared at Charleston:

The trouble with South Carolina is that it has but two issues—the race question and liquor. The liquor issue in South Carolina has worsened since 1936 and its race question has reached an astoundingly low level over the corresponding period. It is not that the two races do not want better relations; rather, it is that Negroes and the white South Carolinians who have outgrown prejudices dare not speak out, least both groups suffer heaping doses of persecution and reprisals.

Disturbed over the crumbled relationship which had been gradually built over the years, 5 white ministers, in 1957, solicited and compiled in a book the opinions of about 10 or 12 other white citizens on proposals to deal with race relations. One woman writer in this series lives in Gaffney. Shortly after her suggested "moderate" stand on integration was published, her home was dynamited. No one has yet been punished for that offense. Several men arrested were freed by juries.

In October of that same year, the home of a Negro in Clarendon County was burned mysteriously at night. He was a farmer who had, shortly before, reported to the sheriff of Clarendon County receipt of threats by mail over the "KKK" signature of the Ku Klux Klan and that he would defend his property should it ever be invaded. The threats came after he had announced his support of the desegregation program in his county.

In February of 1958, a young Barnwell County Negro was taken from his home at Salley by two white men into a swamp along the banks of the Edisto River. No one has seen nor heard from him since. Shortly before, he and a Salley white man had engaged in a fight. The incident was reported to the State constabulary, which is subject only to the Governor of South Carolina, and to law-enforcement officers in the county of Barnwell. Thus far nothing has been done.

During the same year, a 15-year-old Barnwell County colored boy was sentenced to 1 year on the county's chain gang. His offense, it was contended that he had spoken improperly to an unidentified white woman in a telephone conversation.

The CHAIRMAN. Counsel wishes to ask a question?

Mr. FOLEY. Yes, sir. With regard to the cases just enumerated, was a complaint in any of them filed with the Federal Bureau of Investigation?

Mr. McCRAY. None whatsoever.

Mr. FOLEY. Why not?

Mr. McCRAY. I can recall one time having the occasion to discuss one of these cases with a representative or an agent who said that so far as he could determine on the surface there was no grounds for Federal action. There was no corpus delicti found.

Mr. FOLEY. That is an indication of a missing man?

Mr. McCRAY. That is all.

Mr. FOLEY. How about the other cases? Was there any complaint filed with the Civil Rights Division of the Department of Justice?

Mr. McCRAY. Not that I know of.

Mr. FOLEY. All right.

The CHAIRMAN. Go ahead.

Mr. McCRAY. In August of 1957, a 60-year-old Orangeburg County Negro farmhand was beaten with soft-drink bottles or pop bottles and cut with a pocketknife by a 17-member group of white men at Wells, S.C. The group had no complaint against the man; it merely was out to beat a Negro for the fun of it. When the leader of this mob was brought before a magistrate at Holly Hill, on a disorderly conduct charge, he was fined \$50 for his part in the incident. The victim was charged with assault and battery by the same magistrate for trying to protect himself singlehandedly against the attacks of 17 white men.

In 1957, too, not far from Holly Hill and in the town of Elloree, another colored man was sentenced to a year at hard labor on the county chain gang. He had been arrested after he shot an Elloree white man who had come into his yard and had beaten him to the ground with an ax handle because the colored man had asked him to desist in using profanity before his wife and children. The colored man had lifted his bloody body from the ground, gone into his home and secured a shotgun. He shot the victim in a leg. No charge has yet been brought against the white man.

I am, by profession, a newspaperman. I have observed with alarm how, in the short period of 5 years, our daily newspapers in South Carolina and with not more than two exceptions among the weekly newspapers, incidents such as these are not reported as freely as is the true tradition of a free press. The strategy is to conceal as many atrocities as possible, to treat them lightly, while at the same time screaming headlines to the world that "everything is hunkydory and especially the Negroes are contented and they are getting along fine and are very happy." Nothing could be further from the truth.

There is no longer a free press in South Carolina. Our newspapers have become propaganda sheets for intolerances. The effect has been to produce a climate productive of not only reprisals and punitive action against those who may subscribe publicly to, or be suspected of favoring school desegregation, but one in which a far more serious and dangerous practice has become commonplace.

What started out some 7 or 8 years ago as resistance to school desegregation when the Clarendon County case was in its initial stages has blossomed out into a gyrating monster which sucks up just about every fundamental and basic right of a free State and a free people.

For example, the South Carolina Legislature, in 1956 or 1957, enacted a law which denied jobs to schoolteachers holding memberships in the National Association for the Advancement of Colored People. To make the law sound honest, the legislature also threw in the Communist Party. Teachers were compelled to submit oaths that they held, or did not hold, memberships in the NAACP. Most of them were dishonest about the fact, of course. But for those who hadn't yet heard that old one about honesty is a good policy providing you don't get caught with it, they were fired. Among those dismissed were the

17 teachers and principal of the Elloree Training School, who took their cases into Federal court. The legislature quickly dropped the law and substituted for it another one which is still on the statute books. The current law requires applicants to set forth a list of organizations in which they hold membership, on the surface an honest requirement as thought the veteran teacher in district 4 of Charleston County last year. She listed the NAACP as one of the organizations in which she held membership and was fired, even though her principal had already recommended her for reappointment to her classroom.

I make no plea for the NAACP nor any other organization, but so long as an organization keeps itself clear of subversive activity and operates in a legal manner, its membership is constitutionally free to meet and to associate as they please. A few weeks ago, this same NAACP, which you were told by the way on yesterday was a despised organization, was granted a State charter by the State of South Carolina. South Carolina governmental officers had checked out its records, as had been done years ago by the U.S. Department of Justice, and found no fault with it. That fact will not, however, lessen attacks in South Carolina against its members and sympathizers and those who believe in its program.

A bitter irony is that such groups as the NAACP have actually gotten State governments like South Carolina off the hook and spurred them to make progress in areas they would not have entered without the initiative produced behind them.

The South Carolina government, for example, speaks proudly now of its school rebuilding program, under which about \$181 million has been allocated for new and remodeled schools, not to mention the other millions paid by local school districts to supplement State funds. Just 6 years ago the State was contending it couldn't and wasn't going to improve Negro schools. Today it reports having spent almost equally for the races on new plants.

The NAACP is, of course, a legal aid organization, and any successes it may have achieved in the South have come as a result of efforts in the South to deny to its Negro citizens the due process of law. There are many instances of record in South Carolina where Negroes have found, and continue to find it impossible to secure the services of local white attorneys. Negro lawyers make up a small percentage of South Carolina attorneys, and only about one-third of the State's 46 counties have them. This lack of an adequate supply of Negro lawyers often leaves the element of doubt in cases where services of these are rendered in communities where they do not live and have advantages held by resident white attorneys.

The CHAIRMAN. I would like at this point to state that as far as I know the National Association for the Advancement of Colored People is doing an excellent job, and I deplore the efforts that are made to put obstacles in its path in an endeavor to aid the good people who happen to be colored in the South.

Mr. McCRAY. May I proceed, sir?

The CHAIRMAN. Yes, sir.

Mr. McCRAY. Last night I read the text of the testimony His Excellency the Governor of South Carolina gave before this committee on yesterday. It was a scholarly document. Like him, I too grew

up in Charleston and around the world it is a well-known fact that we Charlestonians are fiercely loyal to each other, and we stick together.

It is therefore with pained regret that I noted he had devoted practically all of his speech to discussing, what lawyers call, I think—I am not a lawyer—a moot question, or *res adjudicata*. He is a lawyer.

Any discussion on whether segregation is right or wrong is discussion of a moot question. It is to make an argument long after the period for argument has expired, and after the issue had been settled. When the issue was being shaped up by the U.S. Supreme Court, South Carolina engaged one of the Nation's topflight constitutional attorneys to serve with the State attorney general's staff in defending its position on segregation. The present Governor, so he announced last year while campaigning for his office, aided in the defense of South Carolina in the school cases ruled on by the Supreme Court in 1954 and 1955. As a citizen and taxpayer of my State I consider it waste of time and public money to engage in fruitless repetitions of the same argument made before, and rejected by our courts of law. The question is not any longer whether we Americans must do away with laws, customs, and usages based on racial discrimination. The question is, we believe: How best to do it? And instead of flailing the Supreme Court and its personnel, which must certainly effect to reversal or intimidation, how much better off wouldn't we be domestically to thank God for what has been done in this instance, and use this opportunity to convince those doubting millions elsewhere around the world that here in America we are a great nation, united and indivisible.

There is an oddity in the argument of those contending that the 1954 and 1955 decisions of the Supreme Court are unconstitutional. It was the same Supreme Court which in 1896 rendered the *Plessy v. Ferguson* decision. It would seem to me that if the Court was wrong in 1954 and 1955 it was also wrong in 1896. It would seem, however, that time and the development of the human race require changes in our mode of thinking and conduct.

I say to you that it is painful to be in disagreement with a fellow Charlestonian, but when I explain that when one has been nursed, has teethed, and sucked "pap" from the editorial pages of Tom Waring's News and Courier, you will understand that I am not being disrespectful. I wish only that we be consistent and accurate.

The Governor told you yesterday that South Carolina is a State of opportunity for colored citizens. "There are colored leaders with their own insurance companies." And I quote that excerpt. This is a minor error perhaps in the fact that there isn't a single Negro owned or operated insurance company among South Carolina Negroes.

Yes, as I've already said, we have some 15 or maybe 18 Negro lawyers. But you should be told, that until 1946, and until after Negroes took this matter into Federal courts, South Carolina offered no training for them in this field. Such training was reserved for white students at the University of South Carolina in Columbia, all of whom were automatically admitted to the practice of law upon graduation. Upon establishment of the Negro law school at South Carolina State College in Orangeburg, the State legislature, how-

ever, changed the thing. It enacted a law which established examinations for all prospective lawyers. Graduates of the State College Law School, for some reason, find it so difficult to pass the bar exams that most of them have to repeat the tests several times. Some of them have yet to pass the exams.

Yes, we have doctors, dentists, and pharmacists among Negro South Carolinians, but none of them can secure training even at this moment at the Medical College of South Carolina, which, in 1958, had an appropriation of \$2,881,335.46. The State government, which informed you on yesterday so proudly of these professionals who are doing well in South Carolina, neglected to explain that it hasn't gotten around yet to providing any training for them elsewhere in the State, not even under its own separate-but-equal doctrine.

The CHAIRMAN. Where are the doctors trained in practice in South Carolina?

Mr. McCRAY. The Negroes who study medicine, Mr. Chairman, are required to enroll in such institutions as Howard University here. I mean that it is done privately. Meharry Medical College in Nashville.

Small sums, described by Negroes as "hush money" are quickly handed those Negroes who will study medicine and in that general field outside of the State, as we have just said. And this is being done some 21 years after the *Gaines v. University of Missouri* case, a governing case for State governments in such training.

It is not necessarily pertinent that the 7,300 Negro teachers in South Carolina outnumber the combined number of Negro teachers in several Northern States. Such factors as job availability, salaries, et cetera, also enter into the equation. But our State government is perhaps indeed proud of its colored schoolteachers. The State, through a device called certification, saves more than \$1 million a year in salaries the State would have had to pay them under an equal pay adopted several years ago after Federal courts began enjoining districts from operating a uniform system of unequal pay to colored teachers. Disclosure of the million dollar savings came from a State senator in Greenwood County, whose job it was to convince white teachers in his county that they should support a change of rating plan by which salaries for teachers are determined.

His explanation of how the savings would be possible was simple and easy: Subject prospective Negro teachers to inferior training, as was then the case, and they wouldn't score as highly as the better trained white teachers on examinations given to determine their ratings.

Education and its benefits are paramount concerns of Negro South Carolinians. Some 70 percent of them live in communities of 5,000 or less population. They are, therefore, essentially rural people whose completed years of schooling do not exceed a norm of 5 years, and whose overall average income is less than \$600 annually.

It isn't difficult to understand then why so many parents want their children prepared and admitted into a better life. It isn't hard to understand why we want our children to have a better day than have had we, but one they earned or were prepared to earn. And they are both determined and unrelenting about this.

Yes, I know you sometimes hear it said by a so-called spokesman from our State that Negroes are satisfied with the present school plants, most of which are less than 5 years old in our State. But these are the facts:

First, many of the new plants, built hurriedly to provide a stopgap to the only real solution of public schools in the State—that of a single system of schools instead of two piecemeal systems, neither of which can produce the kind of adequate and efficient service a public school should, are already overcrowded in many districts.

Secondly, there are yet undisposed of petitions for immediate integration in more than a dozen districts outside of Clarendon County. Last year, and in Clarendon County, parents in districts 2 and 3 filed petitions with their respective school boards asking for desegregation of district schools.

In January of 1958 some 11 students submitted applications to the University of South Carolina, which is State supported, seeking admission.

Even if they indicate nothing else, I think these petitions and applications dispel any theory that there is satisfaction and contentment over the South Carolina school situation.

At the end of 1957, there were an estimated 175,000 to 200,000 registered Negro voters in South Carolina. Today, there are about 60,000, in a year's time. The story behind this reduction of the number of Negro voters is another example of how the segregation issue has been used to abrogate other rights long established.

By legislative action, the State scrapped its registration system, effective April 1, 1958, and adopted the system used in Mississippi, Louisiana, and Alabama so effectively to reduce the number of Negro voters. The new system, much more involved, was promoted by the White Citizens Council in South Carolina, as it was in Louisiana, Alabama, and Mississippi. In most counties we believe that registration is honestly conducted; however, in others teachers, college graduates, ministers such as we have with us today, and other professionals have been and remain denied the right to register.

The device in operation to effectively hold down the number of Negro voters, and especially in some lower-State areas where citizen council chapters are operating, is to intimidate by suggestion or overt act Negro employees in rural communities and keep them suspended under an umbrella of fear should they undertake to register.

In one low-State county, when a principal-preacher kept trying to register, both he and his wife lost teaching jobs. Unofficially, they were suspected of communistic ideas since they wanted to vote.

That great President and leader, the late Franklin Delano Roosevelt, set an excellent goal for all peoples when he enunciated his "freedom from fear, freedom from want," doctrine. There is no freedom from fear for those Negro and white South Carolinians who do not submit completely and willingly to the edicts and mandates of an organized minority, strangling democratic life out of the State.

In the Elloree and Summerton, in the Kingstree, Sumter, and Lake City communities, Negroes who are suspected of favoring desegregation are quickly and summarily fired from jobs, and barred from other employment by whites in the community. At the same time his or her relatives are also dismissed, and buying on installment credit for

all of them canceled by local merchants. Similar cancellations are also made against any sympathetic white merchants, or wholesalers who allow credit to a Negro whose name has been placed on a list of persons the community undertakes to starve to death, or force out of the locality. Nearly 200 families in the Elloree area, and more than 100 in the Summerton area, not to include other similar communities, have packed their families and moved elsewhere since 1955. Is this the kind of America we wish to sell abroad?

The CHAIRMAN. Will you be subject to any ostracism when you go back because of your testimony here?

Mr. McCRAY. I am sorry, sir.

The CHAIRMAN. Will you be subject to any ostracism or difficulty in the event that you return after your testimony here?

Mr. McCRAY. I doubt very seriously in my case.

The CHAIRMAN. Why do you say that?

Mr. McCRAY. I don't live in one of these areas. I live in the capital city, and those of us who live—

The CHAIRMAN. What is your work? What do you do?

Mr. McCRAY. I am a newspaperman.

Can we develop a different kind of America? South Carolina?

South Carolina, in spite of its present lowly status when compared with States having more objective and tolerant leadership, has—not of its own inclination—always fallen in line with law and order in the end. It's thrown up a rearguard action, of course, but somehow it has always managed to do what it has been required to do if enough authority and pressure were behind the order.

Twenty years ago, 1939, it was debating the equal-pay issue. In a bitter speech against equal salaries to teachers, a Georgetown County legislator declared:

We'd like to see anybody make us pay Negro teachers the same salary white teachers are paid. They'll have to send the U.S. Army in South Carolina to get it.

Five years later, equal salaries for teachers were the law of the State. A Federal court had ordered it that way.

In 1944, the government of South Carolina was resisting admission of Negroes into Democratic primaries. All sorts of violences and chaos were foreseen by opponents to Negro voting. Today, 15 years later, white South Carolinians, especially those holding or seeking public offices, view Negro voters just as does this distinguished Columbia white lawyer who, some time ago, stopped one of our number on Main Street one morning, shook hands and admitted:

I've been wanting to see you for a long time. I honestly didn't think we could vote together without serious trouble. We've been doing it for 5 years now and I know my judgment was in error. I just wanted you to know that. Why in the world hadn't we been doing this years ago?

In spite of the hue and cry being made against desegregation, even as they tell you it is unworkable, fraught with violences and destruction, it is steadily developing in the State of South Carolina.

At Rock Hill, it has been in effect in a privately operated elementary school for 2 years; it has been without incident.

For better than 3 years, passengers have been boarding city buses at Charleston and in Columbia and taking seats as they were available, without deference to race or color. There has been no incident.

For more than a decade, military personnel at Fort Jackson near Columbia, at Shaw Field near Sumter, at Parris Island near Beaufort, and at the Donaldson Air Force Base near Greenville, has not only lived and worked without the supervision of State laws regarding race and color, but has extended this association into the homes of their personally chosen friends and pals in these services in the city and nearby communities. The same is true at the Charleston Airbase.

At the Charleston Navy Yard, civilian personnel has maintained a desegregated status for several years, which includes use of the cafeteria, and other yard facilities. In staid Charleston, in Charleston where we never forget to remind visitors that it was here the Ordinance of Secession was signed on December 24, 1860, there has been no rebellion against this progress and change of systems.

There are other instances of desegregation occurring in South Carolina, but these only serve as further proof that the citizens themselves, white and colored, were they given the opportunity, they would exercise good judgment and bring an end to this monster of racism which has plagued not only them but America for more than a century. But they are not permitted this opportunity by the class of racial proselyters, who have nothing else of importance with which to attract attention and get into public offices.

South Carolina set up about 4 years ago what it calls the Gressette committee. The Gressette committee is headed by State Senator L. Marion Gressette, from Calhoun County, one of the State's smallest counties, which has a white population of 4,304 persons and a non-white population of 10,449 persons. Of the 4,304 white persons living in that county, 1,699 are registered voters. Of the 10,449 Negroes living in Calhoun County only 74 are registered. The Gressette committee is something that the government of South Carolina perhaps doesn't want you to know about, but it has been at work for some 4 or 5 years with one purpose, not to find ways of complying with the Supreme Court's orders or decisions and orders on integration, but to find ways of how not to comply with it.

I noted last week that the speaker of the house in South Carolina delivered an address in Charleston and urged his fellow members of the Jewish race against supporting civil rights measures. There was no discrimination against races in the State, he declared. The fact that he has remained for 20 years as speaker of the house, was proof that the State didn't engage in racism.

Then, I read more on the same subject last night in the text of the speech made to you on yesterday.

There are, we believe, several members of the Jewish race who are in the State legislature, as there are living in best sections of our communities and serving on public agencies. But there hasn't been a Negro elected to public office in or from South Carolina, so far as records indicate, in 50 years, and yet Negroes are 40 percent of the State's population and they outnumber whites in 19 of the State's 46 counties. There is a reason for it, of course. Negroes soon wearied of being shot down as was done at Phoenix in Greenwood County when they came to vote 61 years ago. The impacts of intolerances in that area, the northwest section of South Carolina, against Negroes voting is reflected even today. In neighboring McCormick County,

there isn't a single Negro out of the 5,998 recorded in the 1950 census as living there, today a registered voter. But 1,399 of the 3,579 white people are voters.

The kind of climate prevailing against Negro voting in McCormick County, or in adjacent Abbeville County, where the only Negro venturing to vote in Democratic primaries in 1948 was beaten and slashed with a knife by a group of white men around the polling places, is one of the problems that should be dealt with.

The Jewish people aren't barred from the University of South Carolina, nor Greeks, as are Negroes. We think that those opposing an end to racial discriminations in South Carolina who point to the Jewish people, the Greek, and perhaps even the Indians, make a strong point for us. We contend that if given opportunity and if spared the well-known types of pressures and reprisals which are as famous around the South as cornbread and chittlins, our racial problems will be solved.

Negroes are not in the legislature. Negroes are not yet enrolled at the University of South Carolina. That they aren't, we say, is prima facie proof of State-sponsored discriminations based on race and color.

What bearing does any or all of this I have said have on matters which concern the gentlemen on this committee?

By virtue of circumstances which decimate our State, and your positions here, it is basically up to you to provide the relief we, and people in other States beset as are we, need in forthright, clear and precise language. There ought not be any form of compromising on so invaluable and inviolable rights as spelled out in the Constitution of the United States. If the shoe we wear were placed on your feet, would you want it? We would like very much to be rid of it. This much is certain, either you are a citizen or you aren't. And if we can arrive so positively at a category such as this, all we need to finish the job is a bit more courage and less conciliation. I think we have it clearly demonstrated to us that the people who come to you and say it can't be done are the people who are not trying to do it. They don't want it done.

We have certain laws in South Carolina which may be classified in the civil rights category, but no citizens are bound to abide by them but the colored. In fact, a legislator from Berkeley County declared a while ago that the State's electric chair was maintained for Negroes. If that is a fact, then the State violated its own law. It has been an integrated public facility.

What we really need as a Nation is for all sections of America, the South, North, East and West to get out of the slave-trading business. All sections are guilty of trading the Negro politically, with the South having a whoppingly big lead. In my State, the Negro is the only pawn in an election.

We would firmly believe that there ought to be immediate, effectively drawn legislation which would restore the full voting rights of all citizens. Gains of the last decade in the South have been whittled to almost insignificance over a wide area. It is a waste of time to expect and hope that southern governments in most States are going to meaningfully protect voting rights of all citizens. No matter how honest the involved officials, unless they can point to Federal laws and regulations, even they cannot buck the pressures and reprisal of persons who do not want the reforms.

We certainly favor legislation which would enable the Attorney General's office, U.S. district attorneys, or any other Federal officers so designated, to institute suits for the relief of any persons whose rights have been violated. Such legislation, for one thing, would speed up the cleanup we need in this area.

We would support fully legislation which would also clean up, or help to clean up, problems around desegregation, and on all levels.

We ought to reexamine, too, our legislation which assures the four freedoms, known now down South as the lost freedoms.

We don't ask you to do more than that. We don't ask you to come down where we live to plant the seed, plow the farm and harvest the crop. We only ask for the seed. We will plant it and cultivate it and harvest it as we have been doing effectively, we think, over the last two decades.

We are tolerant and patient; however, our patience should not be construed to mean tolerance.

Finally, I reiterate our gratitude for permitting us to be heard. You've demonstrated in this gesture a deeper interest in what is really wrong in South Carolina than we've ever heard of down there.

If, for any reason, you have not understood what I've tried to say, let me conclude with this well-known account of the preacher who, while taking his afternoon walk in the woods, discovered a huge bear chasing him.

The gentleman, of course, began running; the bear began gaining. The minister, between his pants for breath, began saying, "Lord, help me."

You remember he scrambled up a tree. "Lord, help me."

The bear began climbing up behind him, "Lord, help me."

The minister, unable to dismount, scrambled up to the topmost limb. "Lord, help me."

When the bear had come to within definitely uncomfortable distance, the gentleman, his eyes now fixed on the sky and his hopes rapidly fading, yelled:

"Now, Lord, if you can't help me any, please don't help that bear any more."

Thank you, sir.

Mr. FOLEY. Mr. McCray, can you tell me just how many members constitute your organization, South Carolina Progressive Democratic organization?

Mr. McCRAY. Mr. Chairman, our organization—maybe I can best answer your question by wondering whether or not the gentleman is familiar with the general organization of the Democratic Party?

Mr. FOLEY. In South Carolina, no. That is why I am asking you.

Mr. McCRAY. I mean nationwide. Mr. Chairman, in every community you have, for example a labor section.

Mr. FOLEY. Yes.

Mr. McCRAY. You have a women's division, and you may have some sections where you have persons of certain groups or religions working together. Ours is in that category, and it is the only organization we have of Democrats in the State that is of this group.

The CHAIRMAN. Now, going back to those instances and examples you cited, denial of the right to vote and qualifying to register.

Mr. McCRAY. Yes, sir.

The CHAIRMAN. Do you know of any complaints that may have been made to any local or State authorities?

Mr. McCRAY. Well, I am certain that some instances in Williamsburg County were reported, but I am not in the position to say whether or not they were filed as cases. There may have been a letter written or something like that.

Mr. FOLEY. Do you know of any legal actions that might have been brought?

Mr. McCRAY. No, I can't think of any, unless I knew the specific case.

Mr. FOLEY. Now do you know of any complaints that may have been filed with either the Department of Justice or with the Civil Rights Commission?

Mr. McCRAY. I know of none of those cases enumerated.

Mr. PEET. Is it the sense of your statement that race relations in the South Carolina area have substantially deteriorated in the last 5 years?

Mr. McCRAY. It has.

Mr. PEET. Now, I note that—

Mr. McCRAY. May I say this, sir. I would qualify that: The race relations have been forced. I don't think that there is any bitterness between the two groups. You have, I believe, a majority of the white citizens or our State and the Negro citizens who get along all right, but you have that contingent that we call office holders whose only issue is race, and should these two groups get together they would be out of office. So any white person, no matter who it is, who wishes to do the honest thing and express or demonstrate his or her convictions on certain issues, particularly when it reaches this race issue, gets the same treatment, and so I mean the ostracism socially.

Mr. PEET. The Attorney General testified here some weeks ago. He made the following statement, and I would like to know whether or not you agree with it. "We should not lose sight of the fact that the tensions which exist in some places have come about because of the very progress that is being made."

Mr. McCRAY. May I hear the last part of it again, please, sir?

Mr. PEET. We should not lose sight of the fact that the tensions which exist in some places have come about because of the very progress that is being made in the field of civil rights.

Now, may I ask this question: Do you believe that substantial progress has been made in the South during the past 5 or 6 years?

Mr. McCRAY. Yes, I would say generally in the South. That is in the area of civil rights. You will note, sir, that in Alabama, for example, you had a number of cases, civil-rights cases, where with the foundation either from some law enacted by Congress or a Federal court decision, Negro citizens have gone into court. They have just taken those to the law. This is that seed that I am talking about. They took that on their own. You have had buses desegregated in Montgomery, Ala. You have had a number of other civil-rights cases coming in Alabama. You have some cases pending in North Carolina now and in Georgia, Louisiana. Some 20 years ago we didn't have those.

Mr. PEET. Do you believe the collapse or heralded collapse of massive resistance in Virginia not long ago was a significant event in the civil-rights pattern?

Mr. McCRAY. Sir, I think that is what has got South Carolina scared to death, because she thinks she is next.

The CHAIRMAN. Thank you very much, sir. We are very happy to have you with us, and you have been very helpful to the committee.

We will now adjourn until we reconvene tomorrow morning at 10 o'clock.

(Whereupon, at 12:45 p.m., the subcommittee recessed, to reconvene at 10 a.m., Thursday, April 16, 1959.)

CIVIL RIGHTS

THURSDAY, APRIL 16, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE No. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess at 10 a.m., in room 346, Old House Office Building, Hon. Emanuel Celler presiding.

Present: Representatives Celler (chairman), McCulloch, Rodino, Rogers, Holtzman, and Toll.

Also present: John J. Flynt, Jr., U.S. Representative from the 4th District of the State of Georgia; Paul Brown, U.S. Representative from the 10th District of the State of Georgia; William R. Foley, general counsel of the subcommittee, and Richard C. Peet, associate counsel.

The CHAIRMAN. The committee will come to order.

We are very happy to have with us the very distinguished Governor of one of our Southern States, Gov. Ernest Vandiver, and we also have with us a distinguished colleague on the Judiciary Committee, a representative from the State of Georgia, Mr. Forrester. He, I think, will deem it a very proud distinction to have conferred upon him the honor of introducing the Governor. Brother Forrester, we are very happy to hear from you.

STATEMENT OF HON. E. L. FORRESTER, U.S. REPRESENTATIVE FROM THE THIRD DISTRICT OF THE STATE OF GEORGIA

MR. FORRESTER. Mr. Chairman, members of the Subcommittee No. 5 of the House Judiciary, it is with pride that I present to you the next witness. He is a young man of splendid heritage. His heart and his soul and his mind beats for this country because his people have had a great hand in the settling of this country, in establishing this country, in preserving this country.

There are no claims of dual citizenship to weigh upon him. There is no divided loyalty. He is completely American, a Georgian, a white man, and intensely proud of all of those factors.

He is appearing here today, Mr. Chairman, to speak in behalf of a great people, a loyal people, a people he loves and people I love. Of course he knows that this pending legislation is aimed at his people and his section. We all understand that. There is no secret about that. And he knows that it is aimed against our way of life and he also knows that it is undeserved and unwarranted. So he is here exercising his prerogative as a citizen and as a head of a great State and as a great soldier, a man who has proven the fact that he is an Ameri-

can in service to his country, and he wants to lift his voice in fairness because, Mr. Chairman, this man knows that my people, my section, has never mistreated the colored man. We have the satisfaction in our hearts of knowing that there is not a word of truth in it. No matter about allegations, general allegations, made by people from other sections. Would to God we could get down to specifics on questions of this kind.

Of course, Mr. Chairman, you know I have been here 9 years and it isn't a new thing for me to hear general allegations made against my people in Georgia. It is a terrible thing—they never pinpoint it, except in two or three instances and when they did I slapped them down with the cold facts and the cold truth and proved that there wasn't a word of truth in those allegations.

If there are any specific allegations made against my State today, here is a man that I think can defend my State and defend it with honor and defend it with truth, and he is laboring under this fact, too, and this is a fact: we just don't have any trouble with the colored man down there. We are getting along all right.

The pity of this age, a tragedy of this age is that outsiders—outsiders—just simply will not allow us to settle our problems down there between ourselves. It isn't the colored man; it is so-called white organizations that are giving us this trouble. If we could just stop them, in 6 months—in 6 months everything would be peace and harmony in Georgia.

Gentlemen, I have been with you 9 years. I hope you know that I have always tried to speak the truth, too. Naturally I am worried; naturally I feel sad, because it is hard for me to realize that my people—my people—are always condemned so much from outside sources and we never have an opportunity to have an examination and cross-examination. If we could just do that, we could get down to the truth and a great people and a wonderful people would be having a fair break.

Mr. Chairman, I present to you the Governor of the 13th State in the United States, a great man, a great American.

The CHAIRMAN. Governor.

STATEMENT OF HON. ERNEST VANDIVER, GOVERNOR OF THE STATE OF GEORGIA

Mr. VANDIVER. Mr. Chairman, distinguished members of the House Judiciary Subcommittee, first I would like to express my very grateful appreciation for the warm and cordial introduction by the distinguished Congressman from Georgia whom we all love and respect. Next I would like to express my appreciation to you for extending me the courtesy of appearing before your subcommittee.

I am aware of the fact that you are now completing studies on a number of proposals pending before you and that you will file your report shortly with the full committee.

The CHAIRMAN. Governor, will you forgive me? I notice the presence of our distinguished colleague, Representative Flynt, of Georgia. I want the record to show that. We are very happy to have you with us.

Mr. FLYNT. Thank you very much. It is a pleasure to be here at this time of the delivery of our very distinguished Governor of our State.

Mr. VANDIVER. I think it would be presumptuous of me today to discuss the fine legal points of these proposals, their content, their history, and their genesis. I will leave this area to my distinguished colleague, Mr. Charles J. Bloch, a distinguished attorney and recognized constitutional authority, who has accompanied me here and who will speak to you at the conclusion of my remarks.

Mr. Bloch has appeared before many committees of Congress in the past and I am sure is a man who is known to many of you either personally or by reputation. He is the author of the splendid book on constitutional law "States' Rights—The Law of the Land." In addition, he is a past president of the Georgia Bar Association; a past chairman of the Georgia Judicial Council; a former member of the State Board of Regents of the University System of Georgia; a former chairman of the Bibb County Democratic Executive Committee; a member of the State Democratic Executive Committee, and a holder of many other posts of responsibility and honor.

It is to him that I will leave the task of presenting an analysis of the purely legal and broad constitutional issues involved in this proposed legislation.

Rather, it shall be my purpose to convey to you in very general terms some of the anxiety which is held by the people of Georgia regarding the harsh nature of some of these so-called civil-rights proposals. And to inform you of the very grave doubts in our minds as to their constitutional validity, whether their enactment is really needed and whether, if enacted, they would serve the best interests of the masses of the people of the Nation.

I shall not at this time trace the history of our country or of our constitutional development other than to say that Georgia was one of the Original Thirteen Colonies, the representatives of which met to forge the bonds which link us in common union.

I shall not go into the fact that Georgia was one of the first States to adopt the Constitution and did so even before the addition of the precious Bill of Rights.

But I shall point with pride to the heritage we share as Americans. I shall also discuss the acute problems which beset us in all areas of our country and the almost absolute necessity that these difficulties be approached with patience and understanding.

And I add with emphasis that patriotic Americans of good will must look for solutions to these problems, not by locking horns as some would have us do, but by locking arms, determined to find through faith and hard work satisfactory answers within the framework of State authority and conditions and practicalities as they actually exist, not as we would fancy them to be.

We cannot find these answers by destroying the Constitution of the United States of America.

We cannot find these answers by destroying the reserved rights of the several States and by concentrating more and more governmental power here in Washington.

We cannot find these answers through the enactment of dangerous, misnamed, civil-rights legislation which, in its cunning provisions, destroys more rights than are created.

From what I have read, there are three major proposals now pending in the Congress which may be summed up by reference to the Johnson bill, the seven-point administration bill, and the so-called liberal bills.

Mr. Chairman and members of the subcommittee, speaking the overwhelming sentiments of the people of Georgia, I must inform you of their deep concern over these bills. Not over their alleged objective of reinforcing the rights of any American citizen, but over what they would do to our form of government, if enacted, and the shambles in which they would leave constitutional processes.

These proposals are all negative in their fundamental aspects.

They seek to suppress symptoms by intimidation instead of offering concrete programs of tangible benefit designed to solve the problems which exist in like measure all over this land of ours.

Rights cannot be secured when power is granted to commit an injustice in the name of justice.

Rights cannot be secured by a government of men or through the naked force of the unsheathed bayonet or the butt of a rifle.

The protection of the civil rights of our citizenry lies not in the enactment of a welter of confusing, contradictory, and unconstitutional laws, but in a strict adherence to the constitutional guarantees, processes, and prohibitions which already are the law of the land and which, without question, are adequate to meet every requirement of those who are concerned about protecting the rights of the American people.

Let the sacred Bill of Rights stand. There is no way that you can improve upon it.

Allow me here to make this observation:

Last year when the overwhelmingly Democratic Congress was elected, the pundits and seasoned observers predicted that this first session of the 86th Congress was going to be composed of a bunch of wild-eyed, long-hair members who were going to pass, at the drop of a hat, all kinds of extreme legislation.

Coming, as your membership did, fresh from the grassroots of America, I doubted that this conclusion was either accurate or justified.

Every responsible citizen with whom I have talked in my State and in others is proud and happy over the fact that this Congress has not turned out to be irresponsible as many misjudged it might and that the legislative process in this country still is sound and that the best interests of the great rank and file of the people come first and foremost.

It is for the great rank and file of the people of Georgia that I speak.

I do not attempt to speak for the small, almost single, handful of professional agitators that invade every State from time to time to stir up trouble and strife and to profit from the misery and misfortunes of others without contributing a single constructive suggestion for improving their lot.

It is with a high degree of satisfaction that I tell you that Georgians of both races have shown good judgment in not falling victim to the siren songs of extremist agitators.

We are making progress.

Free of meddling and outside interference, it will continue.

There is mutual respect and a common determination among all our people to fulfill their needs with Georgia resources within the framework of Georgia authority.

For over a decade now it has been the policy of the State government to equalize and to improve education, welfare, health, employment, economic, and other opportunities for all our people.

Colored citizens have shared heaviest in these new benefits.

I would like to emphasize that Georgia leadership pushed this policy to successful culmination in our State, not because of any external compulsion, but because we considered it right from every standpoint.

All Georgians, regardless of varying shades of political opinion, laid aside their differences and put their shoulders to the wheel.

In Georgia, we have in the public schools 654,592 white children and 305,819 colored children.

Teaching them, we have 23,286 white teachers and 9,943 colored teachers.

There is equalization of facilities and equalization of teachers' salaries with equal pay for equal experience and academic qualifications.

Since its creation in 1952 the Georgia State School Building Authority has underway or completed 481 new school plants, 354 additions to existing plants, 166 remodeling projects, all of which represent a grand total of 10,234 instructional units, costing \$162½ million in State funds.

This does not include other similar structures built with purely local funds or Federal money in impacted areas.

It no doubt will interest you to know that of the total, and this is very important, over 50 percent went to provide entirely new buildings for colored children, although the percentage of colored to the total population is only slightly over 30 percent.

Additions and remodeling were confined largely to plants serving white children.

In Georgia, gentlemen, we have solved and are solving our statewide school housing problem and we are solving it to the satisfaction of both races.

Our efforts must continue unchecked.

Nothing must be allowed to distract us from the task at hand.

Georgia is giving her people the real civil rights—the right to be secure with knowledge—the rights which can be felt, used, tasted, enjoyed, and enriched.

Neither race wishes to give up its buildings, its autonomy, nor its teachers.

We have had steady advancement in job opportunities, personal incomes, housing and other meaningful benefits accruing in everyday living. That is the Georgia civil rights program.

Now, in conclusion, let me recall here another day in our history when reason gave way to passions of the hour.

During the period of reconstruction which followed the war between the sections, a series of laws were enacted so base that no American can read them now without a sense of shame.

It is regrettable that there are some striking parallels between them and some of the proposals of the present day, not as harsh, perhaps, but just as contrary to the language of the Constitution and just as inconsistent with the public welfare.

This Reconstruction era is referred to by historians as "The Age of Hate."

It was a time of hysteria in which the President, himself, for the sole "crime" of upholding the Constitution was tried for impeachment and was acquitted by a single vote.

It was a time not unlike the last few years when no sooner was one harsh measure of oppression penned than another and a harsher one was joyously brought forward to punish a prostrate people.

While all those about him lost their heads there was one man who kept his.

That was President Andrew Johnson, whose courage, rightness, patience, and ability as a fighter foiled the conspiracy against himself, against the Presidency, and against the Constitution.

While a man of moderate background, a man of the people, Johnson was better steeped in constitutional tradition than any other President, save only his predecessor. For, in reality, Johnson's fight was Abraham Lincoln's as Lincoln's policies just prior to his tragic death had invoked the wrath of the radicals both in his Cabinet and in Congress.

Johnson's first message, delivered December 5, 1865, contained one of the best statements of constitutional philosophy ever written by a President of the United States.

The Constitution, he said, formed the chart for his policies and he added:

Its authors intended the American Union to last as long as the States themselves might last—

and that—

the hand of Providence was never more apparent in mundane affairs than in its framing and adoption.

The government thus established, he wrote:

is a limited government and so is every State government a limited government.

The States, with proper limitations of their powers, are essential to the life of the U.S. Constitution. The assent of the States gave vitality to the Union, and—

the perpetuity of the States; their mutual relation makes us what we are, and in our political system their connection is indissoluble. The whole cannot exist without parts, nor the parts without the whole. So long as the Constitution of the United States endures, the States will endure. The destruction of the one is the destruction of the other.

President Johnson thus explained his views of the mutual relations of the Constitution and the States because they made plain the principles upon which he had sought to overcome the "appalling difficulties" which confronted him.

Lincoln's successor declared:

It has been my steadfast object to escape from the sway of momentary passions, and to derive a healing policy from the fundamental and unchanging principles of the Constitution.

It is one of the blessings of our history that this brave man did not die without complete vindication for his stand in defense of our form of government.

The life and dedication of this man of courage who placed his whole future and being in the scales of public conscience are an inspiration for those of us today.

Let us reject the malignant growth of sectional hatred, envy, and jealousy which permeates most of these bills.

Most of them are nothing but the moves of political chess players in the game of partisan politics.

And, the warning flag is hoisted high for all to see that this beloved country of ours is confronted with a far more serious threat than that presented by what the peoples of other nations might think of us because we do not destroy our institutions and strike down the reserved rights of the States.

This struggle is but one facet of the ever-present, underlying Communist plan to divide and conquer.

Instead of representatives from various States of our Nation being here today arrayed one against the other, instead of you and I spending our time discussing whether or not more legislation, punitive to the South, will be enacted, I suggest to you that we stand side by side as our forefathers did in 1776 and in other times of crisis when our Nation has been challenged.

I suggest to you that together we should be investigating the real genesis of this punitive legislation.

I suggest to you that we should be saying to the Communists in America and in Russia or wherever they may be: "You shall no longer in this beloved America of ours array brother against brother, group against group, and race against race."

Mr. Chairman, I am grateful for the opportunity of presenting the views of my State to the subcommittee.

The CHAIRMAN. Governor, before commenting on your statement, I notice that there came into the room while you were speaking our distinguished colleague, Representative Paul Brown from Georgia, who is an old soldier in the legislative halls, a truly dedicated servant and one who is very well represented in the State of Georgia. I want you to go back and tell your people that the representation that your people have sent to the halls of Congress are splendid gentlemen and they should remain here as long as they desire to remain.

Governor, I want to compliment you on the very temperate and well poised statement that you just gave. It is a real treat to hear a statement of that character.

Are there any questions?

There is only one question I would like to ask.

Mr. ROGERS. I understand Mr. Bloch will talk to us on the legal side.

Mr. VANDIVER. That is correct, sir.

The CHAIRMAN. Then we will wait until Mr. Bloch testifies.

Mr. BLOCH. I couldn't hear you. Are you talking to me?

Mr. ROGERS. No. The only thing is we are going to have the pleasure of hearing from you on the legal side, as indicated by the Governor. Is that correct?

Mr. BLOCH. Yes.

The CHAIRMAN. Well, we will then hear from a very erudite gentleman who has appeared before our committee on a number of other occasions. I draw attention to Charles J. Bloch, Esq., attorney at law of Georgia, whom I have known for many years, who is indeed a distinguished publicist, an eminent lawyer, dedicated to the principles he espouses, an educator, a thoroughgoing gentleman.

Mr. Bloch, we will be very glad to hear from you.

Mr. BLOCH. Thank you.

Mr. FORRESTER. Mr. Chairman, would you allow me the privilege of presenting this gentleman?

The CHAIRMAN. Certainly.

Mr. FORRESTER. I would certainly appreciate it. First let me say to the chairman that I know that I express the feelings of Congressman Brown and Congressman Flynt when I tell you of our deep appreciation for your kind remarks concerning the Georgia delegation.

It has been a fine experience for myself and for all of the members of our delegation to have the privilege of meeting the membership from the four corners of their country. It is amazing to me, utterly amazing to me, the respect and regard that we can have more members of the other sector suddenly show the affection and friendship that they hold for us and the commendation that we also receive when any of our Representatives come up here and testify. It is just amazing to me that so many bad things can be said about us and so many judgments rendered against us in an ex parte manner.

The CHAIRMAN. Well, human nature is full of frailties, you know.

Mr. FORRESTER. Yes, sir, I am certain of that and I hope we can cure a few of them. We are working toward that end today, Mr. Chairman. I see America in full bloom. Over here at the Sheraton-Carlton Hotel hundreds of people are congregating there today—"National Clearinghouse for Civil Rights." I will say to my intense regret a very prominent Democrat is making the speech on this occasion.

Now what I am trying to say is with that meeting over there here is a man that is the abutment, the epitome of that which is good in this country. Here is a man up here—you don't have to tell me; I know what I am talking about, I have been here too long—that you would refer to as a Jew. That is the way you deal with him here, but down where he lives and the people he represents, we don't do that. We don't do that. We are freer of prejudice than any section in this country and the terrible criticism always heaped upon us, utterly without justification, is amazing to me. It is amazing to me when I come up here and go in other sections of the country and see the hate you have, and sometimes it is deserved, too, but you have it. Down there where we live, Charlie Bloch never wonders whether Dick Forrester is a Gentile or not. He never considers a thing of that kind. Not a man down in Georgia would want to know whether Charlie Bloch is a Hebrew or not. They know he is one of the best men Georgia ever produced and they know there is not a more loyal one in the United States than he is.

Now I want to make that statement and I want to throw out the challenge—I want to challenge any member of this subcommittee, and you can go over there to the Senate committee, and I want to challenge any member to just try him. If you don't believe that Charlie knows the Constitution of the United States, just try him out. I am telling you there is not a man in the United States that knows it any better than this wonderful gentleman. And I will tell you another thing. Down there where Charlie lives and where I live and where this good man lives, it is a strange thing but you know we haven't got any Communists. We just don't have them down there. Have you gentlemen ever stopped to wonder just how it is that we

have that virtue? We haven't got them. If you want to find Communists, you have to come up in the northern and eastern sections of this country. You just can't find them down there.

Now a year or two ago down there there was a man who stole a suitcase down there. He went into the suitcase and he found some blueprints that he determined belonged to the military. He took the blueprints and put them back in the suitcase and went over to a locker at the terminal station, put it in the locker, mailed the key to the FBI. He said, "I stole a suitcase just a while ago," and he said, "I am a thief, but I am an American thief. I don't steal secrets from America. You will find the blueprints over in the lockbox."

So I say to you that while we do have some thieves, by the grace of God they are American thieves.

Now I will tell you this too, about us. Charlie, if you could turn back the clock and if you had your wish, you would want to live right down there in Macon, Ga., and with us, just as we are richer and finer for having had you, and God bless you. And I tell you this, Mr. Chairman, that is the man that made the nominating speech for Senator Russell over at the Democratic Convention in 1952. Oh, no; Senator Russell didn't get the nomination, but that man's speech is still ringing in the ears of good Americans. It was a great delivery of the heart and soul of America. He has been chairman of our judicial council, chairman of our board of regents. He could have held any office in Georgia that he wanted. And he is a man that loves us; he is a man that loves his country.

Charlie considers it a pleasure and a privilege to defend us and we appreciate you gentlemen giving him this courteous hearing, and I know you will do that because you did that 2 years ago.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Bloch.

**STATEMENT OF CHARLES J. BLOCH, ESQ., ATTORNEY AT LAW,
STATE OF GEORGIA (MACON, GA.)**

MR. BLOCH. Mr. Chairman, gentlemen, I want to thank my old friend, Congressman Forrester, for his kind remarks. A few days ago, I had an inquiry as to how much I weighed and how tall I was and what my hat size was so that I might be furnished with the proper academic dress at an occasion which is to happen on June 21 of this year. I gave them that information and told them that I wore a 7 $\frac{3}{8}$ hat, but after listening to Congressman Forrester I think I am going to have to telegraph them and tell them I wear about a 7 $\frac{7}{8}$.

MR. FORRESTER. I will get him that hat, Mr. Chairman.

MR. BLOCH. As I look back over my career at the bar, one of the brightest spots is the opportunity that I had 2 years ago to discuss with you gentlemen those bills, parts of which became the Civil Rights Act of 1957. So I want to sort of take up where we left off there.

You recall, those of you gentlemen who were on the committee at that time, and I think most of you were, that I took the position rather steadfastly that what has become parts 2 and 3, sections 1971 (b) and (c) of title 42 of the United States Code Annotated were unconstitutional. It so happens that that section which is section (c) of 1971 is being tested right now in a case pending in the District

Court of the United States for the Middle District of Georgia, the United States of America against the Board of Registrars of Terrell County, Ga., in which I have the honor to be counsel for the Board of Registrars and we are testing out in the proper forum, the courts of the land, the very questions that were raised here before you gentlemen 2 years ago last February.

You may recall that the opinion was expressed here that day that in your delegation of power to the Civil Rights Commission and to the Attorney General in that section of the bill which has become 1971(c) of title 42, that you were delegating too much power, that you were giving to a human being too much power and we, you gentlemen and I, debated that question somewhat. You will find it is all part of the record of that hearing, so I won't repeat it now.

I said then, in effect, and I say now that when power is delegated there is a tendency on the part of the delegate to expand the grant beyond the terms of that which the Congress intended when it made the delegation.

As an illustration of that, I call your attention to the use which the Attorney General is seeking to make of the powers granted to him under title 42, section 1971(c). I don't believe that any one of you gentlemen ever dreamed when you passed that bill in September of 1957 that the Attorney General of the United States would use it, would use that grant of power to file suit in the name of the United States against one of the sovereign States of the Union in a district court of the United States. Yet in an effort to make the case stick down in Alabama, that is what the present Attorney General has done. He has sought to make the State of Alabama a party under the authority given to him by you gentlemen in 1971(c) of title 41. That case is pending the Circuit Court of Appeals for the Fifth Circuit and is set for argument there on May 1, and inasmuch as I have recently been asked to file a brief *amicus curiae* in that case and perhaps to participate in the oral argument, it would perhaps be improper for me to discuss it any further here along the lines that I intend to discuss it.

Mr. ROGERS. May I interrupt you and ask you this question—

Mr. BLOCH. Mr. Rogers, would you mind hollering at me. I forgot my hearing glasses.

Mr. ROGERS. According to the press report, you are reported to have made the allegation that the delegation of authority of the Attorney General to intervene in these cases was unconstitutional and that we as a legislative party had had no authority to designate he or anybody else to come in. Now I am just asking whether or not the newspaper reports are correct as to your contention.

Mr. BLOCH. If the newspaper reports said that, Congressman Rogers, the newspaper reports were wrong. We have thoroughly discussed, as you will note from the report of that hearing, that it is the right of Congress to delegate power, fixing standards. The point that is being made is that the sections 1971 (b) and (c) of title 42—that is, it is being made in the Georgia case—that sections 1971 (b) and (c) do not constitute appropriate legislation under the 15th amendment in that you have placed it in the hands of the Attorney General, in the power of the Attorney General to file suit when the right to vote has not been abridged by or denied by a State but

when that abridgment or denial has been done by a person, which we take the position is unconstitutional under the case of *United States v. Reese*, 92 U.S. and *James v. Bowman* in 190 U.S. That is the position we are taking. That is one of the positions we are taking, but none of the positions covers the question that you asked.

The CHAIRMAN. I understand that the lower court ruled against the Government in that case, didn't they?

Mr. BLOCH. The lower court, unless it has passed on the Georgia case since I left there yesterday, the district court has not ruled in the Georgia case.

The CHAIRMAN. I mean the Alabama case.

Mr. BLOCH. The Alabama case. Judge Johnson of the Middle District of Alabama held against the Government. Not on the constitutional question. The constitutional questions were not reached in the Alabama case. In the Alabama case, Judge Johnson held that the State of Alabama could not be made a party and that the registrar defendants, having resigned and having had a right to resign, that there wasn't any case left. That is the case that is coming up before the Circuit Court of Appeals in New Orleans on May 1, but the Georgia case has not been decided.

The CHAIRMAN. So that the constitutional question was not decided until the Alabama case?

Mr. BLOCH. The constitutional question has not been passed on, unless it has been passed on since I left there yesterday noon.

Of course, gentlemen, all of these bills stem from the school segregation cases of 1954 and 1955. Fortunately for all of us, that decision of May 17, 1954, may have been only a temporary departure from the current of American constitutional law.

Before I commence on the remarks that I prepared, I would like the opportunity of calling to the attention of the committee a very recent decision of the Supreme Court of the United States, *Brown v. United States*, 79 Supreme Court 539, written by Mr. Justice Potter Stewart, with whom Justices Frankfurter, Clark, Whittaker and Harlan concurred, and it gives some hope that the American doctrine of constitutional law may be restored as declarations of the law of the land.

Those Justices said, and I quote:

The statute which confers immunity upon a witness testifying in a grand jury investigation under part 1 of the bill was enacted in 1893. For more than half a century it has been settled that this statute confers immunity from prosecution coextensive with the constitutional privilege against self-incrimination and that the witness may not therefore lawfully refuse to testify.

Citing *Brown v. Walker*, 1896, 161 U.S. 591.

I interpolate: It so happens that *Brown v. Walker* was decided the same year as *Plessy v. Ferguson* was decided.

The context in which the doctrine originated and the history of its reaffirmance through the years have been so recently reexamined by this court in *Ullman v. United States*, 350 U.S. 422 as to make it a needless exercise to retrace that ground here. Suffice it to repeat that *Brown v. Walker* has become part of our constitutional fabric. It is thus clearly too late to question the constitutional sufficiency of the immunity provided under part I of the act.

Now, gentlemen, if ancient law had prevailed, as it should have on May 17, 1954, instead of modern psychology, as I read that decision in the last *Brown* case, *Brown v. United States*, it occurred to

me that the segregation cases might well and legally have been disposed of in a paraphrase of that quotation, of the quotation I just gave to you from Judge Potter Stewart's opinion.

The opinion in such a disposition could well have read—this is my talking—

the amendment which is deemed to destroy the States rights to separate the races and their public schools was ratified in 1868. For more than half a century it had been settled that this amendment did not prevent a State from segregating children of the different races in their schools.

The CHAIRMAN. This is your interpretation of the decision; that is not the decision?

Mr. BLOCH. Yes, sir. [Continuing:]

The context in which the doctrine of "separate but equal" originated and the history of its reaffirmance through the years was reexamined by this Court in *Gong Lum v. Rice* almost 30 years ago and almost 50 years after the establishment of the doctrine. It is a needless exercise to retrace that ground here. Suffice it to say that *Gong Lum v. Rice* and *Plessy v. Ferguson* have become part of our constitutional fabric. It is thus clearly too late in the day to question the constitutionality of the separate but equal doctrine as applied to public education.

The CHAIRMAN. May I at this point, Mr. Bloch, comment on your phrase "temporary departure"? I think you used that phrase, did you not?

Mr. BLOCH. I say I hope that the decision of May 17, 1954, is just a temporary departure from the current constitutional law.

The CHAIRMAN. Let's look at that a moment. We had in 1949, in the case of Sipvel against the University of Oklahoma, where the Court passed on Oklahoma's exclusion of the Negro from its school, its law school. That case used some 200 words in an opinion that held the case was governed by the so-called Missouri decision, which held that "separate but equal" was not constitutional. Beyond that, in the same year, Shelley against Cramer—

Mr. BLOCH. What was that last case?

The CHAIRMAN. The same year, 1948, the Court held that judicial enforcement of restrictive covenants with regard to sale of property to Negroes likewise violated the equal protection clause, that justice was similarly reticent, speaking exclusively to the opinion of Chief Justice Vinson. In other cases in the field of segregation, the Justice continues to speak only to the Chief Justice, where in the Oklahoma State Regents case it was announced the legal protection was denied to Negroes in the State University when they were segregated in classrooms, libraries, cafeterias.

On the same day he spoke for a unanimous and otherwise silent court in *Sweatt* against Painter, holding that a Negro was denied equal protection of the laws by being excluded from the University of Texas Law School, even though the State provided the separate law schools for the benefit of Negroes.

So we have a number of cases which—this is a word I used—the coming of the decision of the now famous Brown case in 1954. So I wouldn't say that it was a temporary departure under those circumstances.

Mr. BLOCH. Mr. Chairman, the Attorney General of the United States, the present Attorney General of the United States, Mr. Rogers, with all respect to him, I think fell into that error in the speech he made

out at the American Bar Association in Los Angeles in August. He said that the Sipuel case which the chairman mentioned and the McLaurin case and Sweatt against Painter, the Oklahoma cases and the Texas Law School case and the Missouri Law School case foreshadows this decision of 1954.

The CHAIRMAN. I am not reading from the Attorney General; I am reading from a volume entitled "The Supreme Court in the Modern Role," by a professor of New York University, Carl Brent Swisher.

Mr. BLOCH. I didn't mean you were reading from the Attorney General, but what I did mean was that whoever wrote that book fell into the same error that the Attorney General fell into out in California and that recently Justice Davis, of the Supreme Court of Illinois, fell into in an article which he wrote for the—wait a minute, I will read you this after I finish that. Justice Davis, of the Supreme Court of Illinois, in the American Bar Journal—I think it was the January issue; it may have been the February issue—followed that same line of thought, Mr. Chairman, as in that book. He said that the *Brown v. Topeka* was foreshadowed by these four cases. Well, I undertook to answer the Attorney General and that was published in the same issue that his speech was published.

I undertook to answer Justice Davis not long ago, but they didn't publish that letter.

With the chairman's permission, I would like to insert that letter into the record.

The CHAIRMAN. It would be good to put it right here at this point.

Mr. BLOCH. Right at this point because I think it distinctly shows that those cases did not foreshadow *Brown v. Topeka*, that *Brown v. Topeka* was not an outgrowth of those four cases, but that, on the contrary, every one of those four cases, the Missouri Law School case, the Texas Law School case, and Oklahoma Law School case, and Oklahoma Graduate School case, the "separate and equal" doctrine was distinctly recognized and it was held under the circumstances there the separate but equal doctrine has been violated.

(The letter reads as follows:)

BLOCH, HALL, GROOVER & HAWKINS,
Macon, Ga., March 14, 1959.

TAPPAN GREGORY, Esq.,
Editor in Chief, American Bar Association Journal,
Chicago, Ill.

DEAR MR. GREGORY: Naturally I have read with a great deal of interest Justice Davis' article on "The States and the Supreme Court" in the March 1959 issue of the journal.

At page 311 he says: "In the field of higher education, the Court abandoned the doctrine of separate-but-equal facilities in the cases of *Missouri ex rel. Gaines v. Canada*, *Sipuel v. Board of Regents*, *Sweatt v. Painter*, *McLaurin v. Oklahoma State Board of Regents*, and *Lucy v. Adams*. Thus, in the school segregation cases, it was not surprising that the Court renounced the doctrine of *Plessy v. Ferguson* and applied to the area of primary education the principles announced in its prior decisions which dealt with secondary education."

I respectfully suggest that Justice Davis has seriously erred in both prongs of that statement. The Court did not abandon the separate-but-equal doctrines in the first four of the five cases cited. The Court in the school segregation cases in referring to those four cases specifically said of them: "In none of these cases was it necessary to reexamine the doctrine (of separate but equal) to grant relief to the Negro plaintiff" (op. cit., p. 492).

I lay to one side the fifth of them, *Lucy v. Adams*, as it was not decided until October 10, 1955, many months after the decision in the school segregation cases.

As to the other four:

In *State of Missouri ex rel. Gaines v. Canada*, the Supreme Court, Chief Justice Hughes writing, recognized the "separate-but-equal" doctrine with respect to law schools, but decided the case in favor of the Negro plaintiff because the white resident was afforded legal education within the State, while the Negro was refused it there and had to go outside the State to obtain it. That, the majority of the Court said, "is a denial of the equality of legal right."

At page 351, the Court said: "* * * The State was bound to furnish him within its borders facilities for legal education substantially equal to those which the State there afforded for persons of the white race * * *."

Ten years after the *Missouri* case had been decided, we find the Court re-examining it and reapplying it in *Sipuel v. Board of Regents*, next mentioned by Judge Davis. Under the reexamination, all that Oklahoma need have done at that time (January 1948) to comply with the "law of the land" would have been to establish a "separate-but-equal" law school for Negroes within the confines of Oklahoma. That is illustrated by *Fisher v. Hurst*, 333 U.S. 147, an outgrowth of the *Sipuel* case.

Of *Succatt v. Painter*, the next case mentioned by Judge Davis, the Chief Justice in the school segregation cases said that therein "the Court expressly reserved the decision on the question whether *Plessy v. Ferguson* should be held inapplicable to public education."

The Court did not. What it did do was to recognize the separate-but-equal doctrine, and to hold that there could not be a "separate-but-equal" law school because of factors "which are incapable of objective measurement but which make for greatness is a law school" (op. cit., p. 634).

In the *McLaurin* case, the last of the four, the Supreme Court held that the separate-but-equal doctrine was not complied with, because the Negro graduate student was assigned to a row of seats specified for colored students. That was in 1950.

Four years later, in the School Segregation cases, the Court did not, as Judge Davis evidently thinks, say, in effect: "We have heretofore nullified the 'separate but equal' doctrine as applied to law and graduate schools for reasons heretofore stated: we now nullify it as to public schools."

What the Court did do (op. cit., p. 492) was to summarize those cases as holding that "inequality was found in that specific benefits enjoyed by white students were denied to Negro students of the same educational qualifications." The word which I have emphasized demonstrates the recognition of the "separate but equal" doctrine, but a failure of it for specific reasons.

In the Segregation cases, the question was "directly presented" (op. cit., p. 492) as to whether the separate but equal doctrine "should be held inapplicable to public education" (ibid.).

The Court held, despite the prior decisions to the contrary, that it should not. In so holding the Court did not extend the rulings of the "four cases" from "secondary" to "primary" education.

It simply "concluded that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal" (op. cit., p. 495).

The conclusion was based upon a finding in the *Kansas* case under consideration (op. cit., p. 494).

That finding, the Court said, "is amply supported by modern authority" (p. 494).

What "modern authority"?

Not the Law School and Graduate School cases, *supra*, but an array of psychologists whose names and works are listed in footnote 11 at page 494, and whose biographies, backgrounds, and history make most interesting reading.

So that, once and for all, Justice Davis and anyone else interested may have a clear view of the "modern authority" responsible for the present attack on public education in the South, I quote that famous 11th footnote:

"K. B. Clark, 'Effect of Prejudice and Discrimination on Personality Development' (Midcentury White House Conference on Children and Youth, 1950); Witmer and Kotinsky, 'Personality in the Making' ((1952), c. VI); Deutscher and Chein, 'What Are the Psychological Effects of Segregation Under Condition of Equal Facilities?' (3 Int. J. Opinion and Attitude, Res. 229 (1949)); Brameld, 'Educational Costs, in Discrimination and National Welfare' (Maciver, ed. (1949), 44-48); Frazier, 'The Negro in the United States' ((1949), 674-681). And see generally Myrdal, 'An American Dilemma' (1944)."

Would that someone would find the time to write an article on "Who Are K. B. Clark, Witmer and Kotinsky, Deutscher and Chein, Brameld, Frazier, Myrdal, and Maciver?"

These are new names in American jurisprudence.

In the law of public education, they have supplanted Judges Luther Day and Chief Justice Shaw and Chief Judge Ruger and Chief Justice Taft and Justice Woods, who are typical of the scores of American jurists who had over a period of a century before May 17, 1954, decided that under American law and the American Constitution the doctrine of separate but equal had a very definite place.

Sincerely,

CHARLES J. BLOCH.

Mr. BLOCH. Let me quote from my book, "States Rights—the Law of the Land":

We come now to *Gong Lum v. Rice*, bearing in mind that the Chief Justice said that in it the doctrine of separate but equal was not challenged, and that "the plaintiff, a child of Chinese descent, contended only that State authorities had misapplied the doctrine by classifying him [sic] with Negro children and requiring him [sic] to attend a Negro school." (Footnote 8, op. cit. p. 491.)

As a matter of fact, Gong Lum filed the petition as next friend of his daughter, Martha Lum, of Chinese descent, who had been classified with colored children pursuant to a provision in the Mississippi Constitution that "separate schools shall be maintained for children of the white and colored races." Chief Justice Taft, speaking for a unanimous court, fully stated the contentions of the parties, then said: "The case then reduces itself to the question whether a State can be said to afford to a child of Chinese ancestry, born in this country and a citizen of the United States, the equal protection of the laws by giving her the opportunity for a common school education in a school which receives only colored children of the brown, yellow, or black races." Speaking for a court composed of Associate Justices Van Devanter, Holmes, McReynolds, Brandeis, Sutherland, Butler, Sanford, and Stone, he pointed out as his foundation stone that "the right and power of the State to regulate the method of providing for the education of its youth at public expense is clear." (Op. cit. p. 85.)

For that fundamental principle he cited *Cumming v. Richmond County of Education*, supra, and quoted the very language which has just above been quoted. Then he used language which made the separate but equal doctrine as enunciated 31 years later in the transportation case of *Plessy v. Ferguson*, even the stronger applicable in a case involving separate schools, for white and colored children, and concluded: "Most of the cases cited arose, it is true, over the establishment of separate schools as between white pupils and black pupils; but we cannot think that the question is any different, or that any different result can be reached, assuming the cases above cited to be rightly decided, where the issue is as between white pupils and the pupils of the yellow races. The decision is within the discretion of the State in regulating its public schools and does not conflict with the 14th amendment." [Emphasis supplied.]

In determining that Mississippi had correctly applied her constitutional provision, the court necessarily had to determine and find that the constitutional provision was valid, and not in contravention of the 14th amendment.

The holding of the court in *Gong Lum v. Rice* can be expressed in the simplest sort of a syllogism:

If black children are not denied equal protection of the laws by the Mississippi constitutional provision, yellow children are not; the courts have repeatedly decided, and we follow and decide that black children are not denied equal protection of the laws by the constitutional provision, therefore, yellow children are not when they are classified as colored, and the provision applied to them.

The unanimous court, headed by Chief Justice Taft, could not, in 1927, have decided *Gong Lum v. Rice* as it did without applying the "separate but equal doctrine," as announced in the transportation case of *Plessy v. Ferguson*, to a school case, and thus following what so many high State and lower Federal courts had sought to establish as the "law of the land."

In *Gong Lum v. Rice*, the Supreme Court of the United States established the "separate but equal doctrine" as the law of the land in public school cases.

That it did so is recognized in the other four cases alluded to by Chief Justice Warren. They were: *State of Missouri ex rel. Gaines v. Canada*, 305 U.S. 337, 59 S. Ct. 232, 83 L. Ed. 208; *Sipuel v. Board of Regents of University of Oklahoma*, 332 U.S. 631, 68 S. Ct. 299, 92 L. Ed. 247; *Sweatt v. Painter*, 339 U.S. 629, 70 S. Ct. 848, 94 L. Ed. 1114; *McLaurin v. Oklahoma State Regents*, 339 U.S. 637, 70 S. Ct. 851; 94 L. Ed. 1149.

Following his listing of these four cases, the Chief Justice said: "In none of these cases was it necessary to reexamine the doctrine to grant relief to the Negro plaintiff. And in *Sweatt v. Painter*, supra, the Court expressly reserved decision on the question whether *Plessy v. Ferguson* should be held inapplicable to public education." The first sentence of the quotations sounds as if the Chief Justice thought that the court had been interested only in going so far as might be necessary "to grant relief to the Negro plaintiff."

In *State of Missouri ex rel. Gaines v. Canada*, supra (1938), Chief Justice Hughes, speaking for the Court, expressly recognized that the "separate but equal" doctrine had been upheld by the Supreme Court in the field of public education. He said, of the Negro's being required to go out of the State for his legal education, at the expense of the State, while whites were educated within the State: "In answering petitioner's contention that this discrimination constituted a denial of his constitutional right, the State court has fully recognized the obligation of the State to provide Negroes with advantages for higher education substantially equal to the advantages afforded to white students. The State has sought to fulfill that obligation by furnishing equal facilities in separate schools, a method the validity of which has been sustained by our decisions. *Plessy v. Ferguson* * * * *McCabe v. Atchison, Topeka & Santa Fe Railway Co.* * * * *Gong Lum v. Rice* * * * Compare *Cumming v. Board of Education* * * *" (op. cit. p. 344).

So, the Supreme Court here recognized that the doctrine was challenged in *Gong Lum v. Rice*. Not only was the challenge overruled, but it was there that the United States Supreme Court first applied it directly in the field of public education, a field in which State courts had been applying it for four score years.

The Supreme Court in this case recognized the "separate but equal" doctrine with respect to law schools but decided the case in favor of the Negro plaintiff because the white resident was afforded legal education within the State, while the Negro was refused it there and had to go outside the State to obtain it. That, the majority of the court said, "is a denial of the equality of legal right * * *"

If the "separate but equal" doctrine had not been recognized, reexamined and applied in that case, the "out-of-the-State" question would have been absolutely immaterial. If the doctrine had not been reexamined and applied, the court would simply have said that the Negro was entitled to go to the same school as the white. The majority of the court, in reexamining and applying the doctrine categorically said: "It was as an individual that he (Gaines) was entitled to the equal protection of the laws, and the State was bound to furnish him within its borders facilities for legal education substantially equal to those which the State there afforded for persons of the white race, * * *" (Op. cit. p. 351.) [Emphasis supplied.]

Two of the Justices dissented. Justices McReynolds and Butler were of the opinion that the Missouri plan satisfied the constitutional requirements, and had "offered to provide the Negro petitioner opportunity for the study of the law * * * if perchance that it is the thing really desired. * * *"

The opinion in the Sipuel case (1948) is short and pointed. Sipuel, a Negro, applied for admission to the University of Oklahoma School of Law, which was the only institution for legal education maintained by Oklahoma. The application was refused solely because of her color. The Supreme Court, per curiam, reversed the Oklahoma court which had denied prayers for mandamus, saying: "The petitioner is entitled to secure legal education afforded by a State institution. To this time, it has been denied her although during the same period many white applicants have been afforded legal education by the State. The State must provide it for her in conformity with the equal protection clause of the 14th amendment and provide it as soon as it does for applicants of any other group. *State of Missouri, ex rel. Gaines v. Canada*. * * *"

So, 10 years after the Missouri case had been decided, we find the court reexamining it and reapplying it. And, under the reapplication, all that Oklahoma needed to have done at that time (January 1948) to comply with the "law of the land" would have been to establish a "separate and equal" law school for Negroes.

That is illustrated by the case of *Fisher v. Hurst* (1948) 333 U.S. 147, 68 S. Ct. 389, 92 L. Ed. 604, an outgrowth of the Sipuel case.

The Chief Justice said of *Sweatt v. Painter*, supra, that therein "the Court expressly reserved decision on the question whether *Plessy v. Ferguson* should be held inapplicable to public education."

What did the court do in *Sweatt v. Painter*? 1948 and 1949 had rolled by. In 1950, *Sweatt v. Painter* was argued before a court every member of which had been appointed by Presidents Roosevelt or Truman. Sweatt had filed an application for admission to the University of Texas Law School for the February 1946 term. His application was rejected because he was a Negro. He brought his suit for mandamus. There was no law school in Texas which admitted Negroes. The State trial court recognized that the action of the State therefore violated the 14th amendment but did not grant the relief requested. It followed the "law of the land" as the court had pronounced it in *Plessy v. Ferguson* (1896), the Cumming case (1899), the Gong Lum case (1927), the *Gaines v. Canada* case (1938) and the Sipuel case (1948), and continued the case for 6 months to allow the State to supply substantially equal facilities. At the expiration of 6 months, the court denied the writ on a showing that the university had adopted an order calling for the opening of a law school for Negroes the following February. While an appeal was pending, the school was made available, but Sweatt refused to register in it. Subsequently, a hearing was had on the issue of the equality of the educational facilities at the newly established school as compared with the University of Texas Law School. Finding that the new school offered Sweatt "privileges, advantages, and opportunities for the study of law substantially equivalent to those offered by the State to white students at the University of Texas," and thus complied with the "law of the land" as theretofore pronounced by the Supreme Court, the trial court denied mandamus. The Texas appellate courts did not disturb that judgment. The Supreme Court granted certiorari "because of the manifest importance of the constitutional issues involved" (339 U.S. 849). Wherein those "constitutional issues" differed from those previously established and decided by the court as the law of the land, we are not told. The court could not "conclude that the education offered petitioner is substantially equal to that which he would receive if admitted to the University of Texas Law School" (op. cit. p. 634), and, therefore, in "accordance with" the Sipuel and Gaines cases, the court said that the petitioner might "claim his full constitutional right: legal education equivalent to that offered by the State to students of other races," and that "such education is not available to him in a separate law school as offered by the State."

The court concluded by saying: "We cannot, therefore, agree with the respondents that the doctrine of *Plessy v. Ferguson* * * * requires affirmance of the judgment below. Nor need we reach petitioner's contention that *Plessy v. Ferguson* should be reexamined in the light of contemporary knowledge respecting the purposes of the 14th amendment and the effects of racial segregation." (Op. cit. pages 635, 636.)

As we read this decision, the court did not expressly reserve decision on the question of whether *Plessy v. Ferguson* should be held inapplicable to public education. What it did do was to hold that there could not be a "separate but equal" law school because of factors "which are incapable of objective measurement but which make for greatness in a law school." (Op. cit. p. 634.)

In the *Sweatt* against *Painter*, if you have it there before you, Mr. Foley, in *Sweatt* against *Painter* the Chief Justice distinctly said—over on the right-hand side of the page there—the Chief Justice distinctly said that it was not necessary to reexamine the doctrine.

This message which has been sent to me says: "Your secretary called. Wanted you to be informed that Judge Davis—that is Federal Judge Davis—had decided to dismiss the complaint in the civil rights case you were trying. Your secretary thought you would want to use the news in connection with your testimony."

Well, he couldn't have done it at a better time. But I can't say "we planned it that way." So it looks as if our constitutional views—I said it here 2 years ago—have been upheld by at least one court thus far. It is good news, of course, and I just finished telling you what the grounds of the motion were.

Now to go ahead with what I prepared here.

In my study of titles I through IV of H.R. 4457, its objectives and purposes, I have had the opportunity to study the testimony of the

Honorable William P. Rogers delivered before your committee on March 11, 1959.

The Attorney General characterized title I as "a proposal to strengthen the law with respect to obstruction of court orders in school desegregation cases."

That title I is:

Whoever corruptly or by threats of force, or by any threatening letter or communication, willfully prevents, obstructs, impedes, or interferes with or willfully endeavors to prevent, obstruct, impede, or interfere with the due exercise of rights or the performance of duties under any order, judgment, or decree of a court which (1) directs that any person or class of persons shall be admitted to any school, or (2) directs that any person or class of persons shall not be denied admission to any school because of race or color, or (3) approves any plan of any State or local agency the effect of which is or will be to permit any person or class of persons to be admitted to any school, shall be fined not more than \$10,000 or imprisoned not more than 2 years, or both.

No injunctive or other civil relief against the conduct made criminal by this section shall be denied on the ground that such conduct is a crime.

This section shall not apply to an act of a student, officer, or employee of a school if such act is done pursuant to the direction of, or is subject to, disciplinary action by an officer of such school.

In his discussion of title I, the Attorney General said—this is page 116 of the hearings:

If the execution of the decrees of the courts are obstructed by force or threats of force, the Federal Government should have authority to act effectively. In a democracy, disagreement with court decrees can find free expression in the available judicial or political processes. It cannot be permitted to find expression in force and thus frustrate lawfully determined rights of individual citizens.

If the premise and objective of the Attorney General and of the authors of the bill and of the administration is correctly stated, why is the legislation limited to the so-called obstruction of court orders in school desegregation cases? Are court orders in school desegregation cases more sacred than any other court orders?

Why should not the Federal Government have authority to act effectively when court orders in cases of whatsoever nature are threatened?

Mr. McCULLOCH. Mr. Chairman, I would like to interrupt the witness right there. The bill to which the distinguished witness refers is the bill which has been described as the administration bill, which I introduced. I would be happy to answer the witness' question by saying there is no real reason.

Mr. BLOCH. I am sorry, Mr. McCulloch, I really couldn't hear you. I don't know whether you asked me a question or just made a statement.

Mr. McCULLOCH. My final statement was I would be glad to answer the witness' question by saying there is no real reason. However, I have long ago discovered in the legislative halls of the Ohio General Assembly and in the Congress of the United States that that which is desired sometimes is not entirely possible of accomplishment. Someone or sometimes in legislation one settles for less than everything that is desired. And if there be people who can provide the votes to cover the field indicated by the witness, I will be pleased to offer the amendment accordingly.

Mr. BLOCH. Thank you, sir. You might have covered what I had here next, but I will go ahead.

The CHAIRMAN. May I interrupt a minute? I am among the first to offer praise to you because of your erudition, your ability to sepa-

rate out in each case that which is chaff and that which is wheat, that which is good and that which is bad, but aren't we here confronted with a practical proposition. We have a Supreme Court decision which strikes down the "separate but equal" doctrine. It has been an interpretation of the 14th amendment. Congress is under a duty to implement that decision. That is how I feel, at least.

Bills have been offered. You may be disheartened at some of the bills. You may wish to refuse to consider some of the bills. Some of the bills may have some good in them; some may have some bad in them. Are you in favor of any action on the part of Congress to implement the Supreme Court decision by any kind of a bill?

Mr. BLOCH. To implement the decision? You mean to make it effective?

The CHAIRMAN. Yes, sir.

Mr. BLOCH. No, sir, I am not because I don't think the decision is good law. I am in favor of legislation by Congress to, under section 5 of the 14th amendment, to implement the 14th amendment or not implement it.

The CHAIRMAN. That is what I am getting at. And, then, if you feel that Congress should not implement the decision in interpreting the 14th amendment in the Brown case and since all of these bills we have before us are implementations of that decision, therefore I take it you are opposed to all of these bills before us.

Mr. BLOCH. I am opposed to every one of them because they are all based on a misconstruction of the 14th amendment.

The CHAIRMAN. And, therefore, does it do very much good and is it a waste of time to pick out any particular provisions of the bill and to offer objections to them?

Mr. BLOCH. No, sir, because when the Attorney General of the United States or anybody else supporting these bills before this committee, this solemn Judiciary Committee of the House, gives a reason for the bills, then that reason ought to be challenged if that reason is not a firm, sound reason.

The CHAIRMAN. Let's go back now to the interpretation of the 14th amendment. Do you believe that the Supreme Court has the right to interpret the 14th amendment?

Mr. BLOCH. Mr. Chairman, would it be out of order if I moved around there where I can hear?

The CHAIRMAN. Not at all.

Mr. BLOCH. I can hear you better then and I won't be under such a strain.

The CHAIRMAN. Come right over here.

Mr. BLOCH. The question was, I believe, if I believe that the Supreme Court has a right to construe the 14th amendment. Why, of course.

The CHAIRMAN. And I take it that when the Supreme Court in 1896 construed the 14th amendment in Plessy against Ferguson and announced that the doctrine: "separate but equal" was within the confines of the Constitution, you accepted that decision?

Mr. BLOCH. Yes, sir, I did.

The CHAIRMAN. Now the same Supreme Court some years later departed from that doctrine and held that the "separate but equal" doctrine is not within the four squares of the Constitution. Do you still accept the Supreme Court's decision?

Mr. BLOCH. No, sir, I don't accept the Supreme Court's decision.

The CHAIRMAN. Why do you accept it in one instance and reject it in another?

Mr. BLOCH. That will take me about 5 minutes to answer. May I?

The CHAIRMAN. Certainly.

Mr. BLOCH. I think the answer to it is this: That in 1868, when the 14th amendment was declared ratified—we will assume that it was ratified—there was contemporaneous construction by the supreme courts of Ohio, Indiana, California, Nevada and a few years later by New York, that despite the 14th amendment the States of the Union had a right to establish segregated schools, despite the "the equal protection clause" of the 14th amendment.

Those cases were based on the case of Roberts against the City of Boston, which was decided 19 years before the 14th amendment was ever ratified, and strange to say, Sumner was counsel in that case.

Now there you had the foundation of the doctrine of stare decisis as applied to those cases. You come along up to 1896 when *Plessy v. Ferguson* was decided. When that was decided, of course it was a transportation case. It involved the Jim Crow laws of Louisiana or Mississippi, but the decision of the Supreme Court of the United States there was based on the school cases. The authority for *Plessy v. Ferguson* was that line of cases which had commenced in 1849 and in an unbroken line of authority continued up to 1896 from various States and inferior Federal courts.

Then you come along in 1899 with the case of Cummings against the Board of Education of Richmond County, 175 U.S. and the language that Justice Harlan used in that case with respect to the rights of the States over the public school and then you come along up to 1927 in *Gong Lum v. Rice*, and the doctrine was announced by Chief Justice Taft, speaking for a unanimous court, that it was no longer an open question in the Supreme court of the United States.

Now my position, sir, is that when the States of the South on the faith of that unbroken line of decisions beginning in 1871 and ending in 1927 expended, when it got able to, after coming out of the Civil War and reconstruction, spent literally billions of dollars on the faith of those constructions of the Constitution of the United States and the 14th amendment, that the Supreme Court of the United States had no right under the doctrine of stare decisis to cast aside that long list of decided cases, particularly the one in 1927 and substitute therefor their own opinions and beliefs founded on psychological, sociological beliefs.

The CHAIRMAN. Will you yield at that point?

Mr. BLOCH. Yes.

The CHAIRMAN. In other words, you say that the Supreme Court had no right to depart from the sacred doctrine of stare decisis in constitutional cases more readily than it can in cases involving statutes because the Court has said time and time again that in cases involving statutes that if a decision is wrong the Congress can change the statute, but it is the Court's duty, if the decision is founded on an unsound legal basis, of course they have the right to upset it. They have done it time and time again. But what I do say here is it is not to be on a legal basis and not on the beliefs of the majority of the court on a sociological basis.

Mr. HOLTZMAN. May I ask a question at this point?

The CHAIRMAN. Yes.

Mr. HOLTZMAN. Mr. Bloch, you are not contending here today, I am sure, because you are an excellent lawyer, that the Supreme Court was estopped from changing its position because of the investment in schools by the South?

Mr. BLOCH. No, sir, I am not saying this was any legal estoppel. There may have been an equitable estoppel, but no legal estoppel.

Mr. ROGERS. All you are saying is it is unfair?

Mr. BLOCH. No, I am not. Of course it is unfair, but I say that the established declarations of the law of the land ought not to be disturbed and the established doctrine of stare decisis ought not to be disturbed because the five of nine men or even the entire nine men on the bench at the particular time may happen to think that segregation, enforced segregation is detrimental to the colored children and that was the basis of the decision.

The CHAIRMAN. Yes, but Mr. Bloch, I am now reading from the Brown decision. It is from page 591, and we have the following:

"In this court there have been six cases involving the 'separate but equal' doctrine in the field of education." There is cited two cases, Cummings against County Board of Education, 175 U.S. 5, 128 and Gong Lum against Rice, 275, 178. The validity of the doctrine itself was not challenged, but those two cases were pretty far afield.

In the Cummings case Negro taxpayers sought an injunction requiring the defendant school board to discontinue the operation of a high school for white children until the board resumed operation of a high school for Negro children.

Similarly in the Gong Lum case, plaintiff, a child of Chinese descent, contended only that State authorities had misapplied the doctrine by classing him with Negro children and requiring him to attend a Negro school.

So here we have had six cases which were consistent with the Brown against Board of Education. How could you say that the Brown case was a departure from stare decisis?

Mr. BLOCH. Did you say the six cases were consistent with Brown?

The CHAIRMAN. Reading from the Supreme Court decision, where they say in this Court there have been six cases involving the "separate but equal" doctrine in the field of public education.

Mr. BLOCH. And those six cases were the Cummings case, Gong Lum against Rice—right where you were reading from—and the four cases which the Chairman cited awhile ago?

The CHAIRMAN. But it said in the two cases, in Cummings against County Board of Education, the Gong Lum-Rice case, those were cases pretty far afield from the doctrine.

Mr. BLOCH. The Gong Lum case was right square on the doctrine.

The CHAIRMAN. I am only citing the footnote in the decision.

Mr. BLOCH. Read the sentence right preceding what you read.

The CHAIRMAN. Wait a minute. The doctrine of "separate but equal" did not make its appearance in this case until 1896 in the case of Plessy against Ferguson, involving not education, but transportation. American courts have since labored over the doctrine for over a half century.

Mr. BLOCH. Right. Now with all respect to the Court, Mr. Chairman, that sentence "American courts have since labored with the doc-

trine over half a century," what American courts have done, instead of laboring with the doctrine, American courts have thoroughly established the doctrine with a unanimity over a half century and if you will read the last page, almost the last paragraph, in *Cummings v. Board of Education*—it is 175 U.S., and it is almost the last paragraph in the opinion—I can supply the language if you will let me right at this point—you will see what I am talking about in the *Cummings* case and in *Gong Lum v. Rice*, Mr. Chairman, if you will read the last paragraph of that opinion. I will be glad to put that paragraph into the record.

NOTE.—The last paragraph in the opinion in *Cumming v. Board of Education*, just referred to, appears at page 545 of the opinion and is as follows: "We may add that while all admit that the benefits and burdens of public taxation must be shared by citizens without discrimination against any class on account of their race, the education of the people in schools maintained by State taxation is a matter belonging to the respective States, and any interference on the part of Federal authority with the management of such schools cannot be justified except in the case of a clear and unmistakable disregard of rights secured by the supreme law of the land."

Previously, at page 544, the court had said: "The substantial relief asked is an injunction that would either impair the efficiency of the high school provided for white children or compel the board to close it. But if that were done, the result would only be to take from white children educational privileges enjoyed by them, without giving to colored children additional opportunities for the education furnished in high schools. The colored school children of the county would not be advanced in the matter of their education by a decree compelling the defendant board to cease giving support to a high school for white children."

The last paragraph in the opinion in *Gong Lum v. Rice*, 275 U.S. at page 87, referred to above is as follows: "Most of the cases cited arose, it is true, over the establishment of separate schools as between white pupils and black pupils; but we cannot think that the question is any different, or that any different result can be reached, assuming the cases above cited to be rightly decided, where the issue is as between white pupils and the pupils of the yellow races: The decision is within the discretion of the State in regulating its public schools, and does not conflict with the 14th amendment."

Previous to that in the course of the opinion, Chief Justice Taft speaking for a unanimous court had at pages 85 and 86 said: "The question here is whether a Chinese citizen of the United States is denied equal protection of the laws when he is classed among the colored races and furnished facilities for education equal to that offered to all, whether white, brown, yellow, or black. Were this a new question, it would call for very full argument and consideration; but we think that it is the same question which has been many times decided to be within the constitutional power of the State legislature to settle, without intervention of the Federal courts under the Federal Constitution. *Roberts v. City of Boston*, 5 Cush. (Mass.) 198, 206, 208, 209; *State ex rel. Garnes v. McCann*, 21 Ohio St. 198, 210; *People ex rel. King v. Gallagher*, 93 N.Y. 438, 45 Am. Rep. 232; *People ex rel. Cisco v. School Board*, 161 N.Y. 598, 56 N.E. 81, 48 L.R.A. 113; *Ward v. Flood*, 48 Cal. 36, 17 Am. Rep. 405; *Wysinger v. Crookshank*, 82 Cal. 588, 590, 23 P. 54; *Reynolds v. Board of Education*, 66 Kan. 672, 72 P. 274; *McMillan v. School Committee*, 107 N.C. 609, 12 S.E. 330, 10 L.R.A. 823; *Cory v. Carter*, 48 Ind. 327, 17 Am. Rep. 738; *Lehew v. Brummell*, 103 Mo. 546, 15 S.W. 765, 11 L.R.A. 828, 23 Am. St. Rep. 895; *Dameron v. Bayless*, 14 Ariz. 180, 126 P. 273; *State ex rel. Soutmeyer v. Duffy*, 7 Nev. 342, 348, 355, 8 Am. Rep. 713; *Bertonneau v. Board*, 3 Woods. 177, 3 Fed. Cas. 294, No. 1361; *United States v. Buntin* (C.C.) 10 F. 730, 735; *Wong Him v. Callahan* (C.C.) 119 F. 381."

You will see that Chief Justice Cass said this in the last paragraph of that opinion, that the question here presented the same question which has been uniformly decided over a period of years and years to be within the power of a State legislature to determine.

Now that is almost the last paragraph in the *Gong Lum* case and the Supreme Court didn't refer to it at all.

The CHAIRMAN. Mr. Bloch, I don't want to split hairs with you, but after all we have the Supreme Court. It makes decisions. Sometimes it may be a wrong decision. Most frequently it makes correct decisions and we have to abide by the decisions. If we don't wish to abide by their decisions, we have a remedy. We have the remedy to impeach these judges.

Now if it was felt that this decision was wrong, why did not the members from the State of Georgia follow the admonition of your State legislature which adopted a resolution which was to the effect—give me a moment and I will get it. I can't find it. It was to the effect that the legislature passed a resolution which was to the effect that the Representatives from the State of Georgia should offer a resolution to impeach them and nobody from the State of Georgia has yet offered such a resolution.

Here it is:

The legislature adopted a resolution on February 27, 1957, calling on United States Representatives from Georgia to introduce a resolution for impeachment against Chief Justice Warren and Justices Black, Douglas, Reed, Frankfurter, and Clark because of certain decisions in which they participated.

Page: Resolution 174, 1957 Session, 2 RRLR 485.

Now I don't wish—I don't blame the Representatives from the State of Georgia for not offering the resolution. I certainly wouldn't have offered it, but isn't that the regular process to be followed, if you do not agree with a decision and you agree that a decision is havoc-inspiring and havoc-making, that you impeach these judges?

Mr. BLOCH. No, sir, that is not the remedy.

The CHAIRMAN. What do you do?

Mr. BLOCH. That is not the remedy at all. A judge can only be impeached when he is guilty of a high crime or misdemeanor. I don't think deciding a case wrong is a high crime or misdemeanor.

The CHAIRMAN. Why did Georgia pass this resolution?

Mr. BLOCH. I don't know. I didn't pass it. I was not in the House. I haven't been in the House of Representatives of Georgia since 1927—32 years ago. I suppose maybe if I had been there I would have voted for it. It was sort of blowing off steam, but the remedy is not to impeach the judges; the remedy is to demonstrate in a legal way that the decision is wrong.

Now mind you, sir, Georgia is not involved in *Brown v. Topeka*. The four States involved in *Brown v. Topeka* and companion cases were Delaware, South Carolina, Virginia and Kansas, and the District of Columbia.

There never has been a case testing Georgia laws. That decision is the law of those cases and to my mind as a lawyer it is not the law of the land.

The CHAIRMAN. Then why did Georgia pass all these other statutes then, statutes which are as follows, if it didn't apply to Georgia, and I agree with you it didn't apply to Georgia, but Georgia went to the extreme of doing the following: It passed a nullification resolution which declared "that said decisions and orders of the Supreme Court of the United States related to separation of races in the public institutions of the State, as announced and promulgated by said Court on May 17, 1954 and May 31, 1955 are null and void and have no force and effect." Why did they do that?

Mr. BLOCH. I imagine they did it for the same reason that back in 1859 the State of Wisconsin, after the case of *Ableman v. Booth* was decided by the Supreme Court of the United States during a democratic administration, the State of Wisconsin—now that is not a southern State—the State of Wisconsin—May I read this resolution that the State of Wisconsin passed a hundred years ago?

Whereas, the Supreme Court of the United States has assumed appellate jurisdiction in the matter of the petition of Sherman M. Booth for writ of habeas corpus presented and prosecuted to final judgment in the Supreme Court of this State and has without process or any of the forms recognized by law assumed the power to reverse that judgment in a matter involving the personal liberty of the citizen asserted by and adjusted to him by the regular course of judicial proceeding upon the great writ of liberty secured to each people of the State by the Constitution of the United States; and

Whereas, such assumption of power and authority by the Supreme Court of the United States to become the final arbiter of the liberty of citizens and to override and nullify the judgments of the State courts is in direct conflict with the provision of the Constitution of the United States which secures to the people the benefits of the writ of habeas corpus.

Therefore resolved, the senate concurring, That we regard the action of the Supreme Court of the United States in assuming jurisdiction in the case before mentioned as an arbitrary act of power unauthorized by the Constitution and virtually superseding the benefit of the writ of habeas corpus and prostrating the rights and liberties of the people at the foot of unlimited power;

Resolved. That this assumption of jurisdiction by the Federal judiciary in the said case and without process is an act of undelegated power and therefore without authority, void, and of no force;

Resolved, That the Government by the Constitution was not made the exclusive or final judge of the extent of the powers delegated to itself, but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well as infractions, as of the mode and measure of redress;

Resolved, That the principle and construction contended for by the party which now rules in the councils of the Nation, that the General Government is the exclusive judge of the extent of the power delegated to it, stops nothing short of despotism since the discretion of those who administer the Government and not the Constitution would be the measure of their powers; that the several States which formed that instrument being sovereign and independent, have the unquestionable rights to judge of its infraction, and that a positive defiance of those sovereignties of all unauthorized acts done or attempted to be done under color of that instrument is the rightful remedy.

Well, I don't agree with that.

Mr. McCULLOCH. I would like to ask the witness the date of that resolution again.

Mr. BLOCH. March 19, 1859.

Mr. McCULLOCH. I thoroughly disagree with you.

Mr. BLOCH. I said I don't agree with that.

Mr. HOLTZMAN. If you do not agree with that decision—

Mr. BLOCH. Don't agree with that decision?

Mr. HOLTZMAN. With that resolution. Why do you then offer it as the same reason that the State of Georgia enacted similar legislation?

Mr. BLOCH. That is to show that the State of Georgia had ample precedent for doing what it did. When the State of Wisconsin didn't like a decision involving a fugitive slave law, the State of Wisconsin didn't mind passing what was the first interposition resolution that I have been able to find. The chairman asked me what reasons you would have for doing it. It had that.

Mr. HOLTZMAN. But you don't believe that the resolution passed by the State of Wisconsin was valid in law, do you?

Mr. BLOCH. No, sir.

Mr. HOLTZMAN. Therefore if that resolution was invalid and that basis was invalid, how then do you justify the action taken by the Georgia Legislature?

Mr. BLOCH. I don't justify it. I don't think—my own view of the law is that no interposition legislation or resolution is good. I think the supreme law of the land is the Constitution of the United States.

Mr. McCULLOCH. Could I interrupt the witness right there? Do I understand from your statement that you do not believe that an unreversed, unstayed judgment or decree of the Supreme Court of the United States is the law of the land?

Mr. BLOCH. That is exactly what I said. I said a decree of the Supreme Court is the law of that particular case, but that the Supreme Court in a case involving the laws of Kansas and the laws of Delaware and the laws of Virginia and the laws of South Carolina in 1954 cannot bind Georgia or any other State in 1958, and that we have got the same right. I will give you a little illustration.

Mr. HOLTZMAN. Let me put the question once again and then I will be glad to have the illustration because I think this is the very crux of the question that you are so ably presenting. I repeat this question: Do you believe that an unreversed, unstayed judgment or decree of the Supreme Court of the United States regardless of the State laws or lack of State laws that may be considered in its final judgment or decree is the supreme law of the land so long as that judgment or decree remains unreversed, unstayed or not overruled?

Mr. BLOCH. I believe that a decision of that sort is the supreme law of the land with respect to the cases before it and decided in that case.

Mr. HOLTZMAN. And all cases with like facts under like conditions?

Mr. BLOCH. No, sir; if you can get one exactly like it; yes. If you could get one exactly like it.

The CHAIRMAN. Let me ask you this, sir, Mr. Bloch. Do you believe in the legality of the 14th and 15th amendments?

Mr. BLOCH. Do I believe what?

The CHAIRMAN. Do you agree with the legality of the 14th and 15th amendments?

Mr. BLOCH. Yes. As an academic question I think they were illegally adopted. I don't think the Supreme Court would never hold it so, and I would never urge it.

The CHAIRMAN. As a practical proposition from a realistic standpoint, they are part of the Constitution?

Mr. BLOCH. Yes.

The CHAIRMAN. Then why in the light of what you said about the inapplicability or partial inapplicability of the Brown decision which interpreted the 14th amendment, why did the State of Georgia on March 8, 1957, pass a resolution to declare the 14th and 15th amendments null and void and of no effect.

Mr. BLOCH. The same reasons stated when Wisconsin passed that. That is the only reason I know.

The CHAIRMAN. Did you make any comment at the time that the State of Georgia's Legislature was just letting off steam and that it

was of no force and effect? There was a lot of sound and fury signifying nothing.

Mr. BLOCH. Did I say that?

The CHAIRMAN. No, no. Did you make any statement like that?

Mr. BLOCH. I didn't say that; no.

The CHAIRMAN. Did you make any kind of statement to the effect that it was just sound or fury signifying nothing?

Mr. BLOCH. No, I didn't say that, because I thought that they had a right to do what they did. As a matter of fact, I think that was testified here in February of 1957, and that I was the author of some of them.

The CHAIRMAN. Now, if what you say about the *Brown* case is so, why did the State of Georgia pass the following statute:

Any peace officer who knowingly refuses or fails to attempt to enforce any law of this State requiring segregation or separation of the white and colored races in any manner of activity shall forfeit all retirement benefits, all disability benefits, and all death benefits.

Why did Georgia pass such a statute if it had no binding effect?

Mr. BLOCH. Because they thought they had a right to do it under the 10th amendment of the Constitution, and I still think they had a right to do it under their reserved power.

The CHAIRMAN. The statute was passed February 6, 1957, which laid the groundwork, and I am not going to read it, for the closing of public schools and the operation of private schools in the interests of bringing about separate but equal attendance in the schools. Why was that done? Why was there a need for the legislature to do all that?

Mr. BLOCH. Because that is very simple, I think, Mr. Chairman, because we feared and we fear now that if the question is ever raised in the Georgia case that there is a possibility that we will not be able to convince the Supreme Court of the United States even as presently constituted that it was wrong in *Brown v. Topeka* so that the Supreme Court of the United States will in a Georgia case make the same decision that it has in the cases involving the four other States. If that is done the right of Georgia to operate public schools ceases because Georgia has no right under its constitution to operate a mixed public school system.

The CHAIRMAN. Now, if that is the case, Mr. Bloch, I am going to ask you, what are we to do? What are the Members of Congress to do? I ask you what are we supposed to do? Are we supposed to allow that Supreme Court decision to remain in a vacuum in the light of what you said, namely, that it specifically applies to four States, and that you harbor the fear that in the event that a similar state of facts arises in Georgia there will be the same kind of a decision? Remember this case was unanimously decided. What are we to do under those circumstances? Are we to just do nothing?

Mr. BLOCH. That is right. Vote for Senator Talmadge's amendment.

The CHAIRMAN. I don't recall what that is.

Mr. HOLTZMAN. Amending the Constitution.

Mr. BLOCH. And submit it to the people as to what they want.

The CHAIRMAN. I think that is the same approach, an attempt to amend the Constitution, but as chairman of the Judiciary Committee, which has, I presume, certain rules.

Mr. FOLEY. Yes.

The CHAIRMAN. I think we have a similar bill. I, frankly, have had no importunities addressed to me to do anything with that bill. Frankly, I want to indicate that to you. Ordinarily if a bill is presented and I have no indication that there is any kind of a ground swell for the bill, I think it is my duty not to do anything with the bill. If there is a great demand for the bill, Members of the House want a hearing on the bill, or the bill referred to the subcommittee, I with alacrity will do so, but under the circumstances I've had no expressed overt or covert desires expressed to do anything with that bill. Now what are we supposed to do, Mr. Bloch?

Mr. BLOCH. You asked me the question what were you supposed to do.

The CHAIRMAN. Most sincerely. What are we supposed to do?

Mr. BLOCH. What I would do if I were in your place?

The CHAIRMAN. Yes.

Mr. BLOCH. I would attend the hearings that are started—not speaking disrespectfully—I am trying sincerely to answer your question—the hearings on that bill that are going to commence, as I understand it, on May 12 before a Senate committee. If I were in the position of the chairman—and the chairman asked me the question—I would go over there and urge the passage of that amendment.

The CHAIRMAN. Well, we have all we can do to take care of our side of the Congress.

Mr. BLOCH. But you asked me what I would do.

The CHAIRMAN. That is all right. But we have enough troubles over here without borrowing troubles by going over there.

Mr. BLOCH. Then I would get word to them by the grapevine to hurry up and pass it.

Mr. HOLTZMAN. Mr. Chairman, may I ask a question?

The CHAIRMAN. Yes, sir.

Mr. HOLTZMAN. Mr. Bloch, when the chairman read to you the resolution of the Georgia Legislature declaring null and void the 14th and 15th amendments, and asked you what justification, what reason you had, or you would offer for that kind of resolution, you began quoting the 1859 resolution of the Legislature of the State of Wisconsin, is that correct?

Mr. BLOCH. Yes, although I don't think Georgia had it before it at the time.

Mr. HOLTZMAN. But in quoting and substantiating the justification for this declaration of the 14th and 15th amendments as being null and void, you call it, and you cite in support of it the 1859 Wisconsin resolution, with which you do not agree, is that correct?

Mr. BLOCH. That is correct.

Mr. HOLTZMAN. Therefore, you don't feel basically that the State of Georgia had a valid premise for offering this resolution?

Mr. BLOCH. That is a complete non sequitur. I don't think it had a firm basis for passing it if it depended on the interposition resolution, but if it depended on law and facts I think that it did have a sound basis because I think that the 14th and 15th amendments were illegally adopted and ratified.

Mr. HOLTZMAN. In other words, you don't believe that the 14th and 15th amendments are the law of the land either?

Mr. BLOCH. No, I didn't say that.

Mr. HOLTZMAN. Are they the law of the land?

Mr. BLOCH. I didn't say that. I think they are the law of the land because I don't think the Supreme Court of the United States would ever set them aside, but I do say that they were illegally adopted and therefore being illegally adopted and being illegally, supposedly ratified, that the State of Georgia has a perfect right to do what it did do when it passed that resolution.

Mr. HOLTZMAN. I don't follow the thinking, and I know that you know what you mean to say, but I haven't followed it. Can we agree now that the 14th and 15th amendments represent the law of the land?

Mr. BLOCH. Yes.

Mr. HOLTZMAN. All right. Now, can we also agree that you find fault with the judgment of the Wisconsin Legislature in their resolution that they passed in 1859?

Mr. BLOCH. I don't think that the State of Wisconsin or any other State has a right to interpose itself between a decision and those affected by it. I don't know what the interposition is, what they interpose. I don't believe in the interposition doctrine, if that is what you mean.

Mr. HOLTZMAN. Therefore you don't believe in the wisdom or the judgment or the legality of the resolution passed by the State of Georgia declaring null and void the 14th and 15th amendments?

Mr. BLOCH. To be specific, I agree with their wisdom and the legality of it, but I don't think it will ever do any good to pass resolutions like that, but I think they were perfectly justified on the historical basis and legal basis in passing it. Now, Mr. Holtzman, if you are interested in that subject, if you will just look in the U.S. Code annotated, underneath the 14th amendment in the annotations right at the beginning of it, and look at the brief history that there is there of the supposed ratification of the 14th amendment, and then read the article written by my friend, Walter Suthon, who is on the faculty of the law school down at Tulane University on the adoption of the 14th amendment, perhaps you will agree with the Legislature of Georgia when it said it was illegally adopted. Of course, everybody knows that the ratification of the 14th amendment was forced upon the Southern States as a condition precedent to their readmission to the Union.

Mr. HOLTZMAN. Assuming everything you say is so, we have agreed time and again here today that they represent the law of the land.

Mr. BLOCH. They represent the law of the land, but I further say that the Legislature of the State of Georgia has a complete, legal, and historical justification for the resolution which it passed in 1956.

Mr. HOLTZMAN. Then you would hold to the proposition that the State can time and time again, based upon its own impression as to whether an amendment was legally ratified or not, continue to resist or continue to offer resolutions in contravention of what you now agree is the law of the land, is that correct?

Mr. BLOCH. They have got a perfect right to say that this thing was illegally adopted.

Mr. HOLTZMAN. Would you also say that they have a right to defy the rulings of the Supreme Court based upon that?

Mr. BLOCH. No, sir, nobody in Georgia that I know of with respect to the school cases has ever defied any ruling of the Supreme Court

of the United States. We say that the rulings do not apply to us, and they are not binding on us. We have got the same right as I see it. To repeat something that I said to you 2 years ago, but more briefly, in 1935 or thereabouts the Supreme Court of the United States in the *Grove v. Townsend*, 295 U.S. 45, which was before it, held that the Texas primary laws which excluded Negroes from voting in Democratic primaries were valid and constitutional. Now, that was a declaration of the law of the land, wasn't it? That was just as much the law of the land when it was decided by the Supreme Court of the United States as *Brown v. Topeka* is the law of the land today.

Mr. HOLTZMAN. Or as *Plessy v. Ferguson* was in 1896; is that correct?

Mr. BLOCH. You will hold *Plessy v. Ferguson* for a minute, if don't mind. Several years later the colored citizens of Texas, without a word of the Constitution of the United States having been changed with respect to the 14th amendment, without a word of the Texas primary law having been changed, sought to vote in the Texas primary. When they did that they were violating the law of the land if your theory is correct, if *Brown v. Topeka* is the law of the land. It went to the Fifth Circuit Court of Appeals. Judge Hutchison and his associates said that this case is controlled by *Grove v. Townsend*, and affirmed the trial judge. In 321 U.S. (p. 469), *Smith v. Allwright*, with only one Justice dissenting, Justice Roberts, they reversed *Grove v. Townsend*. Haven't we the same right to test *Brown v. Topeka*? Haven't the white people of the South the same right to test *Brown v. Topeka* as the colored people had to test *Grove v. Townsend*?

Mr. McCULLOCH. I want to answer that question. Of course, you have, and any decision or judgment or decree of the Supreme Court may be in my opinion attacked in any proper case at any time, and if it is properly overruled the case that overrules it becomes the law of the land. Now, that may be an oversimplification, but that is the substance of what I believe.

The CHAIRMAN. May I add that the Supreme Court very frequently has changed, and may I add the Supreme Court has frequently changed its rules; in the child labor case, in the AAA case, in any number of cases, it has reversed its previous decision.

Mr. BLOCH. Of course, I have no right to speak for the State of Georgia. The Governor is here—

The CHAIRMAN. You are speaking very well, indeed. I want to say you are very delightful as a witness. It is wonderful to have you with us.

Mr. McCULLOCH. I am sorry the entire Judiciary Committee isn't here.

Mr. BLOCH. We say the decision in *Brown v. Topeka* is not binding upon us. We are not defying anybody. If the Supreme Court in a case involving Georgia's laws in 1959 ever holds that Georgia cannot maintain a segregated school system, then, of course, that decision would be obeyed.

The CHAIRMAN. What will Georgia do then?

Mr. BLOCH. Because the Supreme Court of the United States has decided in a case affecting Georgia, to which Georgia was a party,

that the 14th amendment to the Constitution means thus and so despite repeated precedents to the contrary.

The CHAIRMAN. What would Georgia do then, discard the separate but equal principle and have integration?

Mr. BLOCH. If the Supreme Court forces us to close our public schools, the mandate of the constitution of Georgia is for the Governor and the legislature—

The CHAIRMAN. Closing public schools is a different matter. If the Supreme Court held in a case arising in Georgia that the separate but equal doctrine must be discarded as illegal, would Georgia provide for integration of white and colored pupils in their public schools?

Mr. BLOCH. I don't think it would. That would depend on what the majority of the people said in an election as to whether or not the constitution should be amended, and I don't think the State of Georgia would ever integrate its public schools.

The CHAIRMAN. And then wouldn't that act to the dreadful economic detriment of the State of Georgia and the impoverishment of a vast segment of its population and create a favored wealthy class, namely, those who are able to afford private instruction?

Mr. BLOCH. No, sir. The answer to that is, no, it would not. The duty of the Governor and Legislature of Georgia under the present constitution of Georgia is to provide an adequate education for the citizens of Georgia. There is no duty to operate a public school system in Georgia, and we would do our best to furnish that adequate education without a public school system if we were forced to integrate the schools.

The CHAIRMAN. What would happen to those children who cannot afford to go to private schools?

Mr. BLOCH. Oh, I think the same thing would happen to them as happened to the GI's who came back from the Korean war and World War II and couldn't afford to go to college, and they were given grants by the Federal Government.

The CHAIRMAN. By the Federal Government?

Mr. BLOCH. And I think that we have got just as much right—the State of Georgia has just as much right to make a grant to the parents of children for their education as the Federal Government has to make a grant to a war veteran for his college education.

The CHAIRMAN. In other words, the State of Georgia would make a grant to the parents.

Mr. BLOCH. Using any school you want to.

The CHAIRMAN. To parents of children who cannot afford to send their children to private schools, Georgia would make that grant.

Mr. BLOCH. Would make a grant, but there would be no public schools operated by the State. Of course, this is not the State of Georgia talking. I am just giving you my opinion.

Mr. FOLEY. Isn't there a Georgia statute to that effect now?

Mr. BLOCH. We have a statute to that effect, yes. The statute was amended at the 1959 session.

The CHAIRMAN. May I ask you this: Would the monies paid to families of white children come from the State of Georgia's treasury?

Mr. BLOCH. All children, white and colored.

The CHAIRMAN. And then would that not be a discrimination in favor of the white children as against the colored children?

Mr. BLOCH. In what respect, sir? They would be getting the same amount of money and they can use it where they want.

The CHAIRMAN. In other words, you feel that you would provide for equal protection in the sense that you are giving subventions to the parents of white children in one way and the subventions to parents of colored children in another way?

Mr. BLOCH. We wouldn't give them in different ways. We would be making them the same grant regardless of the amount of taxes they paid.

The CHAIRMAN. But the schools would be separate?

Mr. BLOCH. The schools would be operated by private corporation. The State would have nothing to do with it, and let me give you this illustration, Mr. Chairman. We tried to think it out pretty carefully.

The CHAIRMAN. Do you have any questions?

Mr. HOLTZMAN. I have a question, Mr. Chairman.

Before when I chatted with you, you indicated because Georgia was not a party to any of these law suits, Georgia was not bound by the Brown decision, is that correct?

Mr. BLOCH. Yes.

Mr. HOLTZMAN. Therefore you felt it was not the law of the land and did not bind the State of Georgia, would that be fair to say?

Mr. BLOCH. Yes.

Mr. HOLTZMAN. In the hypothetical case given to you by the chairman, you now have a decision by the Supreme Court of the United States emanating from a matter in which Georgia was not a party, is that correct?

Mr. BLOCH. Yes, sir.

Mr. HOLTZMAN. Isn't the hypothetical question propounded by the chairman, and then the question was asked would Georgia integrate in such a case, and you said "No." Well, now, would it then be the law of the land if Georgia was a party to the original action?

Mr. BLOCH. No, sir. The Supreme Court of the United States, Mr. Holtzman, has never in any of these cases held that a State had to integrate its public schools. The furthest the Supreme Court of the United States has ever gone, and it was made perfectly clear by the late Judge John J. Parker in the Allen case, with which I am sure Mr. Foley is familiar, all the Supreme Court of the United States has ever held, that is, as we think it is, is that a State cannot use public funds to operate a segregated public school system. They have not gone so far—no court has said you have got to operate an integrated system. So that in case that the chairman proposed the legal decree would have to read the defendants—in that particular case the School Board of Atlanta or Chatham County, or whatsoever, were enjoined from operating a segregated school system, and that decree would be obeyed. Of course, if it wasn't, they would put them in jail or worse, fine them.

The CHAIRMAN. Mr. McCulloch wants to ask a question.

Mr. MCCULLOCH. Mr. Chairman, there was a brief comment on what might constitute an impeachable offense. Since we dropped that very quickly and since discussion has been at great length on so many other matters, I would like the chairman's permission to have inserted into the record at this time article II, section 4, of the Constitution, which particularly refers to impeachment, together with the discussion

that follows it, as found in Jefferson's Manual on the Rules of the House of Representatives for the 85th Congress.

The CHAIRMAN. It will be accepted.

(The document follows:)

SEC. 4. The President, Vice President, and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

§ 194. Nature of impeachable offenses. As to what are impeachable offenses there has been much discussion (III, 2008, 2019, 2020, 2356-2362, 2379-2381, 2405, 2406, 2410, 2498; VI, 455). For a time the theory that indictable offenses only were impeachable was stoutly maintained and as stoutly denied (III, 2356, 2360-2362, 2379-2381, 2405, 2406, 2410, 2416); but on the tenth and eleventh articles of the impeachment of the President the House concluded to impeach for other than indictable offenses (III, 2418), and in the Swayne trial the theory was definitely abandoned (III, 2019). While there has not been definite concurrence in the claim of the managers in the trial of the President that an impeachable offense is any misbehavior that shows disqualification to hold and exercise the office, whether moral, intellectual, or physical (III, 2015), yet the House has impeached judges for improper personal habits (III, 2328, 2505), and in the impeachment of the President one of the articles charged him with "intemperate, inflammatory, and scandalous harangues" in public addresses, tending to the harm of the Government (III, 2420). There was no conviction under these charges except in the single case of Judge Pickering, who was charged with intoxication on the bench (III, 2328, 2341). As to the impeachment of judges for other delinquencies, there has been much contention as to whether they may be impeached for any breach of good behavior (III, 2011, 2016, 2497), or only for judicial misconduct occurring in the actual administration of justice in connection with the court (III, 2010, 2013, 2017). The intent of the judge (III, 2014, 2382) as related to mistakes of the law, and the relations of intent to conviction have been discussed at length (III, 2014, 2381, 2382 2518, 2519). The statutes make nonresidence of a judge an impeachable offense, and the House has taken steps to impeach for this cause (III, 2476, 2512). There has, however, been some question as to the power of Congress to make an impeachable offense (III, 2014, 2015, 2021, 2512). Usurpation of power has been examined several times in its relations as a cause for impeachment (III, 2404, 2508, 2509, 2516, 2517). There has also been discussion as to whether or not there is distinction between a misdemeanor and a high misdemeanor (III, 2270, 2367, 2492). Review of impeachments in Congress showing the nature of charges upon which impeachments have been brought and judgments of the Senate thereon (VI, 466).

Mr. BLOCH. I don't know, Mr. McCulloch, what the import of that is as to anything I said, because I tried to make myself clear that I did not think an erroneous decision per se was a high crime or misdemeanor or was impeachable under the Constitution of the United States. Now, if there was some ulterior motive behind that, that could be reached, then you might have a different question.

Mr. McCULLOCH. In other words, there was no intention to reflect on that. There is a very excellent discussion in the Parliamentarian's Manual for the purpose of the record, and I move the chairman to insert it.

Mr. BLOCH. In fact, one of our Congressmen did introduce an impeachment resolution, ex-Congressman Wheeler.

Mr. FOLEY. That hearing was held right in this room.

The CHAIRMAN. Mr. Forrester wishes to say something.

Mr. FORRESTER. Would the Chair permit me to say this? I believe the Chair will agree that there was a resolution for impeachment introduced by a member of the Georgia delegation; that I was a member of the Judiciary; that I made a statement at this meeting when we convened for the purpose of hearing that resolution. Do you remember we did hear that resolution; that I made the statement just as Mr.

Bloch has made the statement, that an erroneous decision could not be the basis for impeachment? Now, I believe that the Chair will agree that I made that statement at that time, and that that was consensus of opinion that in nowise did we contend that we didn't think the decision was wrong, but having had some experience as an officer of the court myself, I think it is mighty bad to be subject to impeachment because I was wrong.

The CHAIRMAN. What the gentleman says I think is correct. If my memory serves me correctly, I didn't mean to disparage the Members from Georgia when I said that no resolution was offered. I simply put that in the record to indicate that they very wisely didn't follow the admonition of the State legislature.

Mr. FORRESTER. I just wanted to get in the record, and I knew the chairman would remember it.

Let me ask you this one question, and I want to ask my good friend from Ohio, also, this question: If the Supreme Court of the United States has said that Georgia must integrate their schools?

The CHAIRMAN. Must what?

Mr. FORRESTER. Must integrate their schools. And if the State of Georgia has said that decision is binding upon us? We have only one or two alternatives. We must integrate or we must abolish our schools. Gentlemen, if we abolish our schools, is that any concern of yours?

The CHAIRMAN. Couldn't you amend the Constitution?

Mr. FORRESTER. I would like to get that question answered. As a member of this Judiciary Committee, do any of you gentlemen contend that you have anything to do with our schools? You can tell us we can't operate a segregated school, but are you gentlemen or any of you contending that with that exception you have anything whatever to do with the schools of Georgia? I say you haven't. I say we cannot violate a decree of the Supreme Court, and we don't intend to, but I say it is none of your business, you have got nothing to do with us if we decide to have a private school. Now, isn't that correct?

The CHAIRMAN. Now, I don't want to enter into any protracted or lengthy debate with you.

Mr. FORRESTER. I don't want to get into a debate either, but I want to know if you contend that.

The CHAIRMAN. I am not inclined to agree with you on that. It all depends upon the nature of the action and in what respect it impinges the Constitution. If there is anything that is unconstitutional, the duty rests upon every citizen to see that there is a correction. However, let's go on with Mr. Bloch.

Mr. BLOCH. Just before Mr. McCulloch made his suggestion there about that insertion into the record, the chairman asked a question which suggested this thought to me with respect to those tuition grants which we may make some day. I hope not, but we will if we have to. But our thought is, see what we are trying to do, all of us, the Governor and the legislature and everybody that is charged with the duty of providing an adequate education for the citizens of Georgia, we are trying to comply with that.

The CHAIRMAN. There is a rollcall. I don't know what that is, but you might proceed.

Mr. BLOCH. We are trying to comply with that obligation. Now, if the Federal court, a Federal court sitting in Georgia, renders a

decree which is affirmed by the Supreme Court of the United States providing that the State of Georgia cannot operate segregated schools, then it becomes incumbent upon the State of Georgia to try to find some legal methods of carrying out its obligation to furnish adequate education to its citizens within the framework of both the Federal Constitution and the State constitution. You would have there the Federal Constitution construed to mean that you can't operate a segregated school system. You would have the State constitution there saying that you can't operate an integrated school system. Well, the chairman asked Congressman Forrester the question: Can't you amend the constitution? Well, the complete answer to that is that is a question for decision by the people of Georgia. Of course, they can amend it if they want to, but I say they don't want to because they don't think it is for the good of the children of Georgia, white or colored, to be mixed in the schools. They disagree with the philosophy of the decision of the Supreme Court of the United States, so we will assume that our constitution stays like it is. Then in order to carry out our obligation we are going to make these grants to the children to go to any schools that they want to. Now, all of you gentlemen, most of you were in Congress when the GI bill of rights was passed, and a Korean war veteran or World War II veteran took that tuition grant, and he might have gone to Brandeis, a Jewish university, or Notre Dame, a Catholic university, or Mercer University, a Baptist university, but that didn't mean that the Congress of the United States was abridging the first amendment or contravening the first amendment when they gave that boy money and he used it as he chose to go to a Catholic school or Jewish school or a Protestant school. So that we think that we have the same right to provide an adequate education for our children by tuition grants as the Congress of the United States had in paying their debt to the veterans of the two wars.

The CHAIRMAN. Mr. Bloch, we want to hear you at length. We may have a vote very shortly. It probably won't come before 1 o'clock. Do you think you can finish by 1 o'clock?

Mr. BLOCH. Well, if I read all this and submit myself to questions I won't.

The CHAIRMAN. Well, suppose you go ahead and we will withhold questions and you go ahead.

Mr. BLOCH. I will do this. I will show you when I get to it where I can shorten it some. I like questions, though.

The CHAIRMAN. I do, too. I enjoy this, but we may have a vote.

Mr. BLOCH. You tell me when to stop.

On the top of page 3, I think I was reading.

In the recent reports of the decisions of the Supreme Court, I have read cases dealing with injunctions of many natures. There is an injunction against the sale and distribution of printed or written indecent matter. There is a case dealing with an injunction as to a violation of the Emergency Price Control Act. There is an injunction protecting property rights in fisheries. There is an injunction under the Fair Labor Standards Act. There is a famous case dealing with an injunction involving the right of the United Mine Workers of America and its president to terminate its contract as to coal mines. Does the administration, the Attorney General, the Congress, believe

that it is consistent with the principles of American Government that the execution of the decrees of the court in cases of this nature be obstructed by force or threats of force? I should say that the answer to this rhetorical question was, "Certainly not." That being the answer, why does not the executive department and the legislative department propose to strengthen the law with respect to obstruction of court orders in all cases? Why limit the legislation to court orders in school desegregation cases? If the underlying principle stated by the Attorney General in his statement here before your gentlemen a week or so ago is sound, that the Court orders must be obeyed, why pick out school segregation cases to provide special legislation for? Make it apply in all of them.

The CHAIRMAN. Mr. Bloch, I just got a call that the Speaker wants to see me. I will be right back, but go ahead and Mr. Holtzman will preside. I will be right back.

Mr. BLOCH. Further, the Attorney General said:

The Department's study shows that there is a doubt as to whether the existing authority of the Federal courts is sufficient to impose effective sanctions against members of mobs * * * or against others who, by threats of force, willfully prevent, obstruct, impede or interfere with the exercise of rights or the performance of duties under a school desegregation order of a Federal court. The purpose of this proposal is to remove that doubt.

Why leave the doubt as to the existing authority of the Federal courts in every other field of American jurisprudence? Why single out school desegregation orders for special treatment? Why not remove the doubt as to all Federal injunctions, if there is a doubt?

And the Attorney General said:

The relevant obstruction of justice statute also appears to be inadequate. I am referring now to 18 U.S.C. 1503.

That statute is a statute of general application. Why not simply amend it so as to remove the alleged inadequacy?

And, still on title I, the Attorney General said:

To sum up, this is clearly a Federal problem and it calls for effective Federal action. This proposal is a specific and firm response to that proven need.

I ask you gentlemen: Is it not a Federal problem when those elements appearing in (1) and (2) of title I are lacking? Why not simply eliminate the language beginning with the word "which" and extending down through the words "any school" and make it applicable to all cases in which Federal decrees are involved, whether labor cases or school cases or whatnot?

And then I quote the section which I can skip in the reading and drop down to the middle of page 5.

The purpose is to provide a Federal deterrent to the bombing of schools and places of worship, a type of outrage that has shocked all decent, self-respecting people. Such incidents present important problems on the national as well as the local level. They are manifestations of racial and religious intolerance that are of extremely serious national and international concern.

Now, I ask you would not decent, self-respecting people be shocked if any building, structure, facility or vehicle were wantonly damaged or destroyed by fire or explosives? Are manifestations of racial and religious intolerance the only manifestations that are of extremely serious national and international concern?

Why is not our Government equally concerned with bombings of hospitals, courthouses, city halls, auditoriums, highway bridges, underpasses, overpasses, piers, railway bridges, mining facilities, factories, business houses of all sorts?

Why limit the scope to religious or educational structures?

If a State government building were bombed, I should think that would be a manifestation of anarchy which ought to be of national concern, though it might not be of international concern.

Should one be permitted to bomb a State capitol or a courthouse or auditorium, or even a building owned by private capital, and flee with impunity?

And the Attorney General said :

Our proposal would meet the situation in a moderate and practical manner. Since 1934, the Fugitive Felon Act, 18 U.S.C. 1073, has been the means for punishing persons who travel in interstate commerce with the intent to avoid prosecution under State law for certain listed felonies, or to avoid testifying in State felony proceedings * * *. The proposal here, the second proposal of H.R. 4457, proceeds on the same general principle and policy as the Fugitive Felon Act, to provide for Federal action as a supplement to, but not a substitute for, State and local action.

It differs from the Fugitive Felon Act in some few particulars. While the Fugitive Felon Act applies to flight from prosecutions for specified common-law and statutory felonies, our proposal would apply to flights from prosecutions for specified common law and statutory felonies, our proposal would apply to flight from and prosecutions for the willful destruction or damaging by fire or explosives of any educational or religious building, structure, facility or vehicle or attempting to do so.

The certain listed felonies in the Fugitive Felon Act are murder, kidnaping, burglary, robbery, mayhem, rape, assault with a dangerous weapon, or extortion accompanied by threats of violence.

Mr. FOLEY. May I interrupt you there. Only recently the Congress enacted a bill to amend the Fugitive Felony Act to include the crime of arson as a felony.

Mr. BLOCH. Arson. If not, it is in the supplement.

Mr. FOLEY. Arson then having been added by the recent amendment.

Mr. BLOCH. If the purpose of the act really is as stated by the Attorney General, why could not that purpose be very expeditiously accomplished by merely adding to the certain listed felonies in title 18, section 1073, "the willful destruction or damaging by fire or explosives of any building, structure, facility, or vehicle, or attempting to do so"?

Mr. Chairman, we believe that this proposal will make it clear that this is a serious national problem. It will retain the primary responsibility for prevention and for the detection of crimes in the State, but it will give the FBI full authority to investigate and to assist in the apprehension of those responsible for these reprehensible types of crimes.

So said the Attorney General at page 125 of that hearing.

There are those who believe that it is just as reprehensible to bomb a courthouse, a city hall, a theater, an auditorium, a bridge, a pier, a factory, a business establishment, as it is to bomb a school or church. The bombing or destruction of any edifice which may cause death or injury to American citizens is most reprehensible; so why limit the scope of the act? Does not the Attorney General think that the

bombing of any structure is a reprehensible type of crime? The very day that I dictate this I have read in the newspapers of the bombing of a residence in Wilmington, Del. Should the perpetrators of that deed be permitted to flee across the State line with impunity?

Or does the Attorney General object to getting the Federal Government into what he characterizes "all kinds of little arson cases."

Mr. HOLTZMAN. I want to say to you, Mr. Bloch, I have such a bill in, and I would be delighted to have your support for it. I think bombing of a home or a factory is just as important as bombing an educational or religious institution, and I am glad to have your support of my bill.

Mr. BLOCH. My support is limited to this: that I think the State is perfectly equipped to handle prosecutions of that sort. But if you are going to make any extension based on the theory that the Federal Government ought to intervene when a man bombs a building and flees over a State line, or woman either, why, it ought not to be—if you are going to pass any legislation on that subject, it ought not to be limited to schools and churches.

Mr. HOLTZMAN. I agree with you. I do not agree that the State necessarily has been doing a good job in connection with the prosecutions for these bombings. We have reported incidents of close to a hundred such bombings, and frankly, I know of no convictions in any of these cases. I wonder if you, Mr. Bloch, know of any convictions for these bombings.

Mr. BLOCH. I know of no convictions unless there was a conviction up there in Tennessee. There were trials in Georgia. There were trials for the bombing of our temple in Atlanta, the Jewish temple, in Atlanta. There were trials, but the first one, I believe, resulted in a mistrial and the second in acquittal. But I don't think that it would have been very different if the Federal Government had been doing the prosecuting. The State certainly did its best with the information that it had, and as I understand it, the FBI collaborated thoroughly with the State in getting up information for that prosecution.

The CHAIRMAN. Don't you think, Mr. Bloch, that it would be a great deterrent to the commission of this type of crime if you had Federal legislation against it?

Mr. BLOCH. No, sir, I really don't. We here had Federal legislation on the books about illicit distilling of whisky for about a hundred years, and they still do it. I don't think that a person about to—

The CHAIRMAN. Would you have more illicit distilling of whisky if you didn't have Federal legislation?

Mr. BLOCH. Seriously, Mr. Chairman, I don't think a man who commits a reprehensible crime of that sort, whether bombing a church or school or private residence, ever stops to think about the results to himself or anybody else, but it might be that the passage of the Hauptmann act, the kidnaping act, for example, has been somewhat of a deterrent.

Mr. PEET. Mr. Chairman, I have here a list prepared by the Attorney General of bombings of schools and religious structures which have taken place during the last few years, and I ask that it be placed in the record.

Mr. HOLTZMAN. It will be so admitted. There is nothing in this to indicate the final disposition?

Mr. PEET. No.

Mr. HOLTZMAN. All right.
(The document follows:)

School bombings

| Date | Place | Description |
|---------------------|------------------------|--|
| Sept. 10, 1957..... | Nashville, Tenn..... | Hattie Cotton School dynamited and damaged in amount of \$500,000. |
| Jan. 19, 1958..... | Chattanooga, Tenn..... | Explosion at Howard High School for Negroes; damage: \$1,000. |
| Apr. 28, 1958..... | Jacksonville, Fla..... | James Weldon Johnson Junior High School (Negro) dynamited. |
| Do..... | Clarksville, Tenn..... | Minor explosion in high school yard. |
| Oct. 5, 1958..... | Clinton, Tenn..... | Three explosions at Clinton High School; damage: \$200,000-\$300,000. |
| Oct. 20, 1958..... | Champaign, Ill..... | Homemade bomb exploded in Westview Grade School before dawn; damage slight. |
| Nov. 10, 1958..... | Osage, W. Va..... | Dynamite blast wrecked school; damage: \$350,000. |
| Nov. 12, 1958..... | Chicago, Ill..... | Homemade bomb exploded in elementary school; Principal suggested schoolboy prank. |
| Nov. 23, 1958..... | New Orleans, La..... | Homemade bomb exploded under window of school board's medical building; 2 teenage students arrested Nov. 26, 1958; admitted guilt. |
| Do..... | Hobbs, N. Mex..... | Dynamite blast wrecked one room of Heiser Junior High School; damage: \$2,000. |
| Jan. 1, 1959..... | Salinas, Calif..... | A crude homemade bomb exploded at the Roman Catholic Palma High School causing approximately \$1,000 damage. |

School attempts

| Date | Place | Description |
|--------------------|---------------------|--|
| Feb. 15, 1958..... | Charlotte, N.C..... | Members of North Carolina KKK arrested with dynamite in their possession in vicinity of Woodland School. |
| Oct. 27, 1958..... | Lynchburg, Va..... | Dynamite found in bag in trash container at E. C. Glass High School. |
| Nov. 13, 1958..... | Lebanon, Pa..... | Homemade bomb found on side porch of Lincoln Elementary School. |
| Nov. 23, 1958..... | Peoria, Ill..... | Bomb found in Peoria Central High School. |
| Dec. 3, 1958..... | Houston, Tex..... | Homemade grenade found on school bus. |

Religious bombings

| Date | Place | Description |
|--------------------|------------------------|---|
| Mar. 16, 1958..... | Nashville, Tenn..... | Dynamite blast ripped off front of Jewish community center. |
| Mar. 16, 1958..... | Miami, Fla..... | Temple Beth El and annex community center bombed; damage: \$36,000. |
| Apr. 28, 1958..... | Jacksonville, Fla..... | Jewish center dynamited; damage: \$2,000. |
| Aug. 5, 1958..... | Memphis, Tenn..... | Baptist church damaged slightly when bomb exploded near building. |
| Oct. 12, 1958..... | Atlanta, Ga..... | Hebrew Benevolent Congregation dynamited; \$200,000 damage. |
| Oct. 14, 1958..... | Peoria, Ill..... | Crude bomb damaged interior and shattered window of Jewish temple. |

Religious bombings

| Date | Place | Description |
|-------------------------|------------------|--|
| About Nov. 5, 1958..... | Peoria, Ill..... | Explosion in basement stairwell of Jewish temple; damage, \$95. |
| Dec. 10, 1958..... | Simi, Calif..... | Building of obscure California sect destroyed by explosion and fire; 8 killed. |

Religious attempts

| Date | Place | Description |
|--------------------|----------------------|---|
| Nov. 12, 1957..... | Charlotte, N.C..... | Shopping bag filled with dynamite at Temple Beth El. |
| Feb. 9, 1958..... | Gastonia, N.C..... | Attempt made to dynamite Temple Emanuel Synagogue; fuse lighted. |
| Feb. 20, 1958..... | Birmingham, Ala..... | Bethel Baptist Church (Negro) of Rev. F. L. Shuttlesworth attempted bombing |
| Apr. 28, 1958..... | ..do..... | Dynamite found in safe at Temple Beth El Synagogue; fuse went out. |
| June 29, 1958..... | ..do..... | Rev. F. L. Shuttlesworth moved dynamite from building moments before it exploded |
| Dec. 7, 1958..... | Houston, Tex..... | Attempt to blow up Trinity Lutheran Church while 1,000 persons were attending services. |

Mr. BLOCH. Section 301 of title 3 is, in part :

Every officer of election shall retain and preserve, for a period of 3 years from the date of any general, special, or primary election at which candidates for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives are voted for, all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election, except that, when required by law, such records and papers may be delivered to another officer of election and except that if a State designates a custodian to retain and preserve the records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian * * *.

In addition to the quoted portion, there is a penalty of a fine of not more than \$1,000 or imprisonment of not more than 1 year.

Section 302 provides a penalty of \$5,000 or prison sentence of not more than 5 years for any person who steals, destroys, conceals, mutilates or alters any record required to be retained and preserved by section 301.

Section 303 of title III provides that any records specified in section 301 shall, upon demand in writing by the Attorney General or his representative directed to the person having custody, possession or control of such record or paper, be made available for inspection, reproduction and copying by the Attorney General or his representative.

Section 304 provides that that record must be placed at the office of the person to whom such demand is made, or at the office of a U.S. attorney in the district where such records or papers are located.

Section 305 provides for secrecy on the part of the Department of Justice and the Attorney General as to the contents of any record produced.

As to this drastic title, the Attorney General made many pertinent comments.

Said he:

The purpose of the bill is to make possible more effective protection of the right of all qualified citizens to vote without discrimination on account of race.

And:

The Department of Justice has no existing power in civil proceedings to require the production of such records during any investigation it conducts as to complaints that qualified persons have been denied the right to vote in violation of Federal law.

Then he discussed the recent case in Alabama, which, by the way, involved Macon County, Ala., and not Macon, Ga., which one gentleman assumed in his questioning, and said:

In other words, we thought the supena power might be construed as an interference with the State's power over voting * * *.

And:

The second provision requiring retention of records for a period of 3 years is of the utmost importance.

He urged this second provision on account of the Alabama situation where the legislature authorized a destruction of voting records. "Similar action," said he, "in other States would frustrate Government inspection of the records if the preservation provision does not become law."

After the completion of the Attorney General's prepared statement, Congressman Rogers asked him: "Along that line and since it deals with section 3 of your proposal, to what extent and how far do you feel that the Federal Government can go in connection with the voting and voting records of a State?"

The Attorney General answered:

I think we can go just as far as we have asked to go in this legislation. Congressman ROGERS. And no further?

Attorney General ROGERS. Not at this moment.

What did the Attorney General mean by that? Wouldn't the Constitution have to be amended for him to go as far as he has gone?

Later in the colloquy, Congressman Rogers said:

Well, may I say that I asked the Attorney General how far the Federal Government should go and he said this is only as far as it should go. So the question is, historically we know that the State, the county, the city has control of the election machinery from the beginning—now, this is a new area we are going into—what I want to know, and I will put it back into your lap, is how far we can go.

Mr. McCULLOCH. I think we can safely go as far as this bill indicates * * *.

And just a little later, counsel to the committee, Mr. Foley, said:

Furthermore, insofar as the election of a Senator or a member of the House of Representatives, does not Article I, section 4, specifically authorize Congress to alter State laws on elections?

To that query, the Attorney General answered, "Sure."

This title III deals with officers and records of elections, general, special and primary, in which candidates for the office of President, Vice President, presidential electors, member of the Senate or member of the House of Representatives are voted for.

The quotations from the record and a study of the bill—this title—reveal that many serious constitutional questions remain unanswered by the testimony of the Attorney General and the colloquies which ensued during it and after it.

First, what is the scope of Federal authority as to primary elections?

Second, is there not a very great difference in the powers of Congress as to at least three classes of elections:

(a) Those in which Members of the House and Members of the Senate are elected;

(b) Those in which presidential electors are chosen; and

(c) Those in which State, county, or municipal officers are chosen?

Third, in the light of these differences, would not a State be justified in amending its election laws so as to prevent Federal interference in elections which the Federal Government has not the shadow of constitutional power to regulate?

Dealing first with the scope of Federal authority as to primaries. In *Classic v. United States*, 313 U.S. 299, the modern view was conceived. In the *Classic* case, strange to say, there were only seven judges sitting, and that revolutionary decision, or decision with such revolutionary consequences which came about from it, was based on an opinion of Justices Frankfurter, Stone, Roberts, and Reed.

Distinguished from the rule of *United States v. Gradwell et al.*, 243 U.S. 476, in *Newberry v. United States*, 256 U.S. 232, Justice Stone, writing for himself and Justices Roberts, Reed, and Frankfurter, thought that the authority given to Congress by article I, section 4 of the Constitution, "includes the authority to regulate primary elections when they are a step in the exercise by the people of their choice of representatives in Congress."

That case led to *Smith v. Allwright*, 321 U.S. 649, and Justice Roberts' bitter dissent therein.

It also led to *Terry v. Adams*, 345 U.S. 461, in which there are four separate opinions. There is one by Justice Black in which Justices Douglas and Burton joined. There is another by Justice Frankfurter. There is another by Justice Clark, with whom Chief Justice Vinson and Justices Reed and Jackson concurred. There is another by Justice Minton.

Not one of these various and varied opinions, nor all combined, in my opinion, would authorize Congress under its supposed authority to regulate primary elections to require an official of a county, city, or State—a registrar—to preserve records assembled in connection with registrations for a primary; to produce these records at the request of the Federal Department of Justice, all under pain of being declared a felon.

Second, if such authority is now going to be read into the Constitution, the power of Congress with respect to elections for Members of the House of Representatives is on a basis different from that applicable to elections for presidential electors, State, county, or city officers, and possibly even U.S. Senators.

Article I, section 2 of the Constitution provides that :

The House of Representatives shall be composed of Members chosen every second year by the people of the several States and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

The 17th amendment tracks article I, section 2.

Article I, section 4, of the Constitution, which, of course, was in the Constitution before the 17th amendment, is, and this is the key to the whole situation :

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators.

The time, place, and manner of holding elections for Representatives are constitutionally prescribed by the State legislatures.

The power of Congress, and the only power Congress has, is to alter or to make substitution for the regulations prescribed by the State, and that alteration or substitution must be confined to the time, places, and manner of holding the elections. Now, if we assume for the sake of argument under the modern doctrine that primaries are included within the broad phrase of elections, as the Supreme Court would

probably hold, still Congress is limited to the time, place, and manner of holding elections, including primaries.

Mr. FOLEY. What would you include within the scope of the word "manner"?

Mr. BLOCH. Leave out the holding of elections.

Mr. FOLEY. Of holding the elections.

Mr. BLOCH. Manner of holding the elections. It all depends on the breadth to be given to the phrase, manner of holding elections.

Mr. FOLEY. May I ask you this, Mr. Bloch? Do you think that Congress under that section could say to the State of Georgia, "You are entitled under the apportionment to 'X' number of representatives. These representatives must run at large instead of running district by district"?

Mr. BLOCH. I don't think there is anything in the Constitution about districts. I think that is statutory.

Mr. FOLEY. That is true; it is statutory. What would you say Congress' authority was for enacting the automatic reapportionment law?

Mr. BLOCH. What was its authority? I have never looked into that.

Mr. FOLEY. It says this:

When apportionment is taken the State is notified as to its number of representatives to which it was entitled in the ensuing Congress—

and then it provides this:

If there is no change in the number all members run in the same districts if the State doesn't redistrict. If the State fails to redistrict and gains one or more members, you maintain your existing district lines, and your new additions run at large. If you lost a number of representatives and fail to redistrict, they must all run at large.

Mr. BLOCH. If you have got the power to do it at all, it would come under article I, section 2, or article I, section 4.

Mr. FOLEY. And the only cases we have ever had to go up in the Court, as you know, is the political question and Congress decides it.

Mr. BLOCH. That is the Illinois case, which Mr. Wein argued.

Mr. FOLEY. Congress, in effect, is saying it is a political question. You judge it. *Collgrove v. Green*.

Mr. BLOCH. I love that case.

The CHAIRMAN. We know that is a very, very difficult situation, and we have been wrestling with it for years here, and we have a bill now which I have sponsored to provide that the districts in the various States must be contiguous and compact to do away with possible so-called gerrymandering, but beyond that I doubt very much whether the Congress would have any power. I question whether the Congress would have any power.

Mr. BLOCH. I do, too. I go a step further: Under the authority of that case, suppose that the State of Georgia—let's use some other State. Suppose the new State of Alaska would just say, "We don't want any representatives in Congress. We are not going to elect any representatives to Congress." Would the Congress of the United States have a right to prescribe that the State of Alaska shall elect a Congressman, and the time of it shall be thus and so?

The CHAIRMAN. You ask some of the finest questions.

Mr. FOLEY. I think they could tell them the time.

Mr. BLOCH. If they can't, then you go back behind that time, manner, and place of holding the elections, because after all we have still got a government of delegated powers, and that is just something that the Founding Fathers overlooked.

Mr. HOLTZMAN. We can work that out. We can say the time is never, the place is in Rangoon, and the manner is none. Would that be it, in your opinion?

Mr. BLOCH. I don't think if the State of Alaska or any State was foolish enough to say, "We don't want to send representatives to Congress," I think all the Congress would say is "So be it." That is all you could do about it.

The CHAIRMAN. Now, we are getting close to 1 o'clock. I hope you can finish by then.

Mr. BLOCH. Yes, I can, because I am going to skip. You have been mighty patient.

The CHAIRMAN. No, it isn't that. You have been wonderful, and I would like to listen to you for hours.

Mr. BLOCH. The only source of power which Congress possesses with respect to elections for Senators and Representatives are article I, section 4, and the 17th amendment. The Newberry case said that, and it has never been disturbed, Congress has a supervisory power over the subject of electing Members of Congress, and might make entirely new regulations or add to, alter, or modify those made by the State. In the exercise of such supervisory power, Congress may impose new duties on the officers of election or additional penalties for breach of a duty or for the perpetration of fraud; or provide for the attendance of officers to prevent frauds and see that the elections are legally and fairly conducted.

But there is no power in Congress even as to the election of its Members which would authorize it to impose new duties on those who have nothing to do with the time, place, or manner of the holding of the election. There is no power in Congress, even as to the election of its Members, which would authorize it or impose new statutory duties and obligations upon State, county, or municipal officers acting under State laws in the registering of voters who might participate in an election to be held in the future.

I am not unmindful of *Ex Parte Clarke*, 100 U.S. 399, involving the conviction of an officer of election being held for Representatives in Congress. The officer was convicted under section 5515 of the Revised Statutes for a violation of the State law in not conveying the ballot box after it had been sealed up and delivered to him for that purpose, to the county clerk.

Thirdly, broad though this power may be over the time, place, and manner of holding elections for Members of Congress, Congress cannot assume full control of all elections at which congressional Representatives are chosen in conjunction with State and county officers. The mere fact that a Representative in Congress is voted for at an election of State and county officers does not authorize Congress to regulate such election in matters which in no wise relate to or affect the result so far as it concerns the United States. *Ex Parte Perkins*, 29 Fed. 900.

And under the guise of regulating the time, place, and manner of holding elections of Senators and Representatives, Congress cannot

by statute impose new duties upon State, county, or municipal officers charged with the duty of registering those qualified to vote under State laws at an election at which others than Members of Congress are to be chosen.

The power of Congress over the selection of presidential electors is even more limited.

Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress * * * (Constitution, Art. II, Sec. 1).

The Congress may not interfere with the method designated by the State legislature for the appointment of presidential electors. *Commonwealth ex rel. Dummit v. O'Connell*, 181 S.W. 2d 691, 298 Ky. 44.

Congress is empowered to determine the time of choosing the electors and the day on which they are to give their votes, but otherwise the power and jurisdiction of the State is exclusive, with the exception of the provisions as to the number of electors and the ineligibility of certain persons. *McPherson v. Blacker*, 146 U.S. 35.

Presidential electors are "State officers," and not Federal officers. *In re Green*, 134 U.S. 377, *Walker v. United States*, 93 F. 2d 383, certiorari denied, 303 U.S. 644.

Squeezed of all of its frills and window dressings, the question is, Can Congress, as appropriate legislation under the 15th amendment, impose upon State or county or municipal registration officers duties in addition to those which are imposed upon them by State law?

If in this respect Congress has a broader power in registration preceding elections for Members of Congress than in other elections, primary or otherwise, then it is incumbent on the States to protect themselves by readjusting their registration and electoral processes so that there will be a separate and distinct system for the registration and election of Senators and Representatives from that system in which presidential electors and other State officers are elected.

Now, the rest of it deals with matters which I think you have anticipated by some of your questions. There is no need of repeating it. It is getting close to 1 o'clock.

I did not get to section 4, which I believe deals with the extension of the life of the Civil Rights Commission. I had something written down about that. I just believe that with the Civil Rights Commission, composed as it now is with the gentlemen who you know compose it, that if its life is extended, I won't say I hope it would be extended because that would be insincere—I spoke against it here before, and I don't think it has gotten to the place where I would be for it now, but if it is extended and the composition of it stays like it is now, I think in the course of time we are going to find, members of the Commission are going to find, that more civil rights are being violated in other sections of the country than they are in the South. They are beginning to uncover that now. The hearing in Atlanta last week indicated that one of the newspaper accounts—I didn't hear it—that one of the members said that the housing situation in Atlanta was better than it was in—

The CHAIRMAN. New York.

MR. BLOCH. In New York. I thought he said New York.

The CHAIRMAN. Which we have to admit was a grave shame.

Mr. BLOCH. I still think that that legislation was unwarranted under the Constitution with its broad delegation of powers that were given there, that composed as it is now, as I say, you may find that more constitutional rights are being affected in the North, East, and West than they are in the South.

You remember the discussion, Mr. Chairman, which we had 2 years ago as to delegating power. I think I replied I had no objection to delegating power if I knew who was going to exercise it. I don't think we have much to fear from the components now, but I hope that the whole thing will end, because it is just a dagger to stop us, that is all.

The CHAIRMAN. Mr. Bloch, I want to make four observations: One, if I ever get into difficulties, and I hope I won't, I would like to hire you as my lawyer.

Mr. BLOCH. Thank you, sir. I am already hired and the fee is nil.

The CHAIRMAN. Secondly, I want to say this, that you have been very instructive to us, and it is a pleasure to sit at your feet as a teacher. You have taught us a great deal this morning, and you are indeed without a peer, without a peer, in presenting the point of view of your great sovereign State of Georgia on this very difficult question of integration, and I want to say finally you have our profound respect and gratitude.

Mr. BLOCH. Thank you, sir.

Mr. HOLTZMAN. Mr. Bloch, I remember very vividly our discussion a couple of years ago when we had the pleasure of listening to you before, and my respect for your talent and ability has not changed. If we could only agree on ideology then I think we would have it made.

Mr. BLOCH. Thank you, sir.

Mr. FOLEY. Reverting back to the type of Federal election records for a moment.

Mr. BLOCH. Yes.

Mr. FOLEY. Do you have any qualms as to its constitutionality?

Mr. BLOCH. Title III that adds these duties to the registrars?

Mr. FOLEY. Yes.

Mr. BLOCH. Yes, sir. I don't think you have any right to say. In other words, I don't think that the new duty that you are imposing upon a State registrar comes within the scope of the time and place and manner of holding elections.

Mr. FOLEY. Beyond that question, do you think as a penal statute, this is of a penal nature, that it is too vague and indefinite?

Mr. BLOCH. I looked into the question of vagueness and indefiniteness, and I would say to that that it was on the borderline. We have a case in Georgia on vagueness and indefiniteness that you might want to look at in that connection of *Hayes v. The State*, in 11 Georgia Appeals. That had to do with the speed with which an automobile could be driven, and one of the old Court of Appeals judges wrote a remarkable opinion in which he reviewed all of the cases with respect to vagueness of a criminal statute. Now, it comes to me that if you use Judge Douglas' dissent in the Classic case as a criteria that it would be too vague, but it is on the borderline.

The CHAIRMAN. Mr. Bloch, I would like you to place your entire statement in the record, that which has been pronounced and that

which has not. We would like to have the benefit of that I take it it covers a number of these other bills?

Mr. BLOCH. No, sir; it does not. I didn't deal with any of them except the 4457, because I knew that the time would be somewhat limited, but I would be very glad to supplement it.

The CHAIRMAN. I would like you, if you could, to supplement it, if you could take the time to do it.

Mr. BLOCH. I have all of the bills.

The CHAIRMAN. Take my bill and the administration bill and let us have the benefit of your good counsel and advice on that.

Mr. BLOCH. 4457 is the administration bill?

Mr. FOLEY. 4457 is the administration and 3147 is Mr. Celler's.

Mr. BLOCH. Are there any others?

Mr. FOLEY. No, those are the two main ones.

The CHAIRMAN. Thank you very much again, Mr. Bloch, and thank you, Governor, and thank you, Mr. Forrester, and those who are associated with you.

Mr. FORRESTER. Could you give him a copy of 3147? He may not have it.

The CHAIRMAN. Well, now we will adjourn until tomorrow morning at 10 o'clock.

(Whereupon, at 12:50 p.m., the subcommittee recessed, to reconvene at 10 a.m., Friday, April 17, 1959.)

CIVIL RIGHTS

FRIDAY, APRIL 17, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:10 a.m., in room 346, Old House Office Building, Hon. Byron G. Rogers presiding.

Present: Representatives Rogers and McCulloch.

Also present: William R. Foley, general counsel of the subcommittee, and Richard C. Peet, associate counsel.

Mr. ROGERS. The subcommittee will come to order. We have a list of witnesses this morning. And the first one we have is our colleague, Bill Colmer of Mississippi. I understand that he will present our first witness. We will be delighted to hear from Mr. Colmer, because he has expressed great interest and concern in this civil rights legislation.

STATEMENT OF WILLIAM M. COLMER, A REPRESENTATIVE IN CONGRESS FROM THE SIXTH CONGRESSIONAL DISTRICT OF MISSISSIPPI

Mr. COLMER. Mr. Chairman and members of the committee, I have as the chairman has indicated, spoken out against these proposals on many occasions, for the past several years, in fact, ever since the inception of what I am pleased to term the "drive for these civil wrongs proposals." And while I am not here to testify this morning, I might want to have that opportunity a little later. What we have done here today is to bring to you one from the grass roots, from my great and, I hope, still sovereign State of Mississippi to testify against these proposals that are pending before this committee, and which are under consideration by this subcommittee.

These bills are very objectionable to me as a Representative in the Congress of the United States, not only upon the color line or minority group basis, but as the distinguished chairman knows from my philosophy of government, as he has heard me expound it on more than one occasion on the floor of the House, because they all add up to a further concentration of power in the centralized Government here in Washington.

As I say, I am not here to testify this morning, but I did want to say that.

We have some other witnesses from my once great sovereign State, who will appear on a later occasion.

Mr. Chairman, now it is my distinct privilege and pleasure to present to you the president of the Mississippi Bar Association, Mr. Breed C. Mounger. Mr. Mounger is a typical Mississippi lawyer. He knows the facts and the conditions that exist in that State. He knows the attitude of the people.

I think I can say for him, as I think he will demonstrate to you later, that he is not only familiar with the views of his people, but he has substantial knowledge of the basic concepts upon which this great Republic was founded. And his one chief desire, I am sure, is to preserve this Republic for future generations along the basic lines that were conceived by the Founding Fathers.

Mr. Chairman, without further remarks on my part, I present to you the president of the Mississippi Bar Association, the Honorable Breed C. Mounger.

Mr. ROGERS. Thank you.

We welcome you, Mr. Mounger. And I may verify what Mr. Colmer said. I have heard him express his vehement objections to all of these civil rights legislation that he has designated as "civil wrongs." And on every occasion that I know of, he has expressed his opposition towards them.

Mr. Mounger, we welcome you. And you may proceed, and proceed in your own manner.

STATEMENT OF BREED C. MOUNGER, PRESIDENT, MISSISSIPPI BAR ASSOCIATION

Mr. MOUNGER. Thank you, Mr. Chairman.

Mr. Chairman and gentlemen of the committee, I approach this task with a deep humility. And let it be known as you weigh the testimony I am about to give, I am possessed of no idolatry and no consuming opinion of the right or wrong of any public issue that causes me to have extreme views on any pending public issue. Quite to the contrary, I have considered the pending House bills H.R. 619, H.R. 3147, and H.R. 4457, considering them as measures that, although it might not be pertinent here in the light of pending Senate bills, visualizing, if you please, what might be the result should segment by segment they reach the statute books of the law of the land. I shall attempt an analysis that would be of some benefit, avoiding, if you please, stereotyped phrases and opinions. I intend only to analyze these bills, with your permission, in the light of an attempted preservation of the American way of life under a democratic form of government.

Now, these proposed bills, whatever their separate origin or introduction, are stamped from a common mold. And I accept that with your permission. The common underlying basic precept and purpose of each and all of them being an annihilation of State sovereignty, and a complete and final destruction of the system of American jurisprudence and a commitment of this Nation to a rule by fiat, under the ungoverned hand of bureaucracy.

Now as I speak of a complete destruction of State sovereignty, will the committee treat me with indulgence at this moment? No matter what one's impression is and opinions may be, the violation of State sovereignty, or, shall we say, forgetting the ugly words "State sov-

ereignty" and call it a unitization of the government of education in a centralized force, has its dangers.

Now assuming it is most sincere and purest of purpose on the part of the scriveners and sponsors of each of these bills to insure civil rights to citizens—and I do not facetiously say "civil wrongs," but the proponents are most prayerfully beseeched to note the most obvious fact that with such most dubious progress as may be made in extending an advancement of social equality among the citizens of the United States, the rights of all free Americans are annihilated and our democratic way of life is openly vulnerable to, I say, complete destruction.

Under the guise of assuring constitutional privilege to some who are erroneously conceived to be abused—and I shall ask the opportunity to prove that statement before I am through—the constitutional rights of all of our citizens under democratic government and the American system of jurisprudence stand readily vulnerable to destruction.

Now continuously and repeatedly assuming the purest of motive and purpose on the part of the sponsors, the actual and ultimate result of these acts would be to completely destroy constitutional government as it has existed in the United States since its origin and to substitute therefor an alienism, choosing in some instances the exact words of party platforms.

The hour at which the introduction of these bills falls is a time when there has been a certain antagonism and a certain report of strife to this Congress with which it is greatly concerned, and that has created such a furor that the attention of, shall we say, the correct technical adherence to the American system of jurisprudence, the eye of Congress may be diverted from it, the eye of this committee, the very screeching place, the place where your lawyers are found, the Committee on Judiciary. If it befalls the duty of any Member of this Congress to preserve—if you think it should be preserved—the American system of jurisprudence, it is right here.

As I talk with you I know that I am talking to my own because all lawyers are dedicated, and cannot help but be, to justice. And when we weigh the justice of a people, of a nation, I know you approach it prayerfully. Now each of these bills flagrantly and openly violates the Constitution of the United States, in the following respects. May I say as a predicate that should the violations that I point out at first seem controversial, treat them and receive the statement with tolerance and I believe that it will become clear before I am through.

The 10th amendment of the Constitution reserving unto the States all powers not expressly delegated—and I am certain that you will entirely agree to that—the United States is flagrantly violated and disregarded and the rights and sovereignty of States are violated and consumed by each and all of these proposed bills.

Article IV, section IV of the Constitution which protects the sovereignty of States against Federal intrusion, "only upon application of the legislative or executive power of that State," is violated and held for naught, in that these bills reach over and administer the law, preadjudicating the existence of violence and lack of tranquility where it does not exist. And there is no call from the legislative part for that.

H.R. 3147, sections 601 to 603 is a most positive violation of the first amendment to the Constitution. This might be conceived as a

technicality and deprives freedom of speech and the right to peacefully assemble in that it attempts to judicially define the assemblage of people and the expression of opinion of people as being a civil wrong and subject to injunctive relief.

And may I say that it decrees that to be a civil wrong as violative of a court decision rather than a substantive law passed by this Congress.

H.R. 3147, very erroneously proclaims the decision of the Supreme Court as "the supreme law of the land." They do that inversely, may it please the committee, in that they say that the Constitution as interpreted by these recent civil rights decisions is the supreme law of the land. But that is one and the same thing as saying that the decisions themselves are the supreme law. The constitutional fathers expressly provided in article VI(2) that the Constitution was the supreme law of the land and in so doing they were possessed of steadfast purpose and the phrase was not a mere accidental choice of words. Nay, verily they intended to protect posterity from the very evil that now presents itself and it would be unbecoming indeed, by these acts to refute and to degrade the precise wording of our Constitution.

In this regard, to clarify myself, it is apparently necessary that I be indulged in the privilege of making an observation which is horn-book law, and we always say that is law fundamental to the approach of the study of American jurisprudence—that is to say, that in the American system of justice, neither the Supreme Court or any other court of the United States was ever empowered or heretofore attempted to make a "law," "supreme" or otherwise. Quite to the contrary, heretofore during the entire life of the Constitution, the Supreme Court and all other courts confined themselves within constitutional power and decreed the rights between litigants, parties to a lawsuit, and rendered interpretations of the laws made by Congress. Now, we can be as opinionated as we may, but these bills in their very wording state that the recent decisions of the Supreme Court, constituting the law of the land, are being violated. And that these measures of enforcement are these. The American system of jurisprudence then and always shall, to your lawyers, gentlemen of the committee, be that they are binding and proclaim a decision, not the law, but decision between particular party litigants of a case at bar.

The supreme law of the land is now the Constitution of the United States of America.

I beseech and direct your attention to the fact that these bills by their own terms completely abort the system of American jurisprudence and would cause us to descend into a veritable maelstrom of legal confusion from the agonies of which the people of America would gladly grasp and embrace them and of any foreignism whatever to be rescued therefrom.

Article I vests the power to make law in the Congress of the United States. Yet, the bills themselves proclaim the courts of the United States to be the supreme law of the land. Conversely, article III vests the judicial power in the Supreme Court and inferior courts of the United States. Yet, these bills on their face proclaim themselves to be an interpretation, modification and amplification of a chain of recent decisions of the Supreme Court, and provide a means for the endorsement of those decrees.

This paradox arises. They adjudge the decisions of them as being the fundamental law of the land, and simply provide a method of endorsement. Now, if that isn't a paradox under the system of American jurisprudence, I never heard of it.

The Supreme Court never intended its decisions as law. It merely rendered a decision applicable solely to parties litigant under the facts of the particular cases which it has decided. We could say that again and again, and we, as lawyers with regard to American justice, know that that is true.

It is beyond belief, therefore, that by these bills Congress is surrendering to the Supreme Court its legislative function under article I and consuming and usurping the power of judicial interpretation vested in the Supreme Court under article IV. In short, call it what we may, we as lawyers with regard for the law know that these decisions are applicable under our system of justice to the parties litigant and the circumstances and facts existent in those particular cases would now by these bills—Congress would—extend the rule and regulation, the force of those decisions to every fact and circumstance and every person, party, and official involved in a civil rights controversy. You will note, you cannot do that.

We could regard this thing further. Take those bills that say that investigation shall be made and then that action shall be instituted by the Attorney General, by the various commissioners and secretaries. You know the best words to call that? That is champerty in maintenance on a national scale. Now we disbar an attorney who takes a decision favorable to a given set of facts and goes out and creates litigation and sponsors it. Yet, that is exactly what these bills would do. They would be to install champerty in maintenance, thus harassing the courts of the United States of America by sponsoring litigation and in some instances, may it please the committee, where it is not wanted by any so-called Mississippian or beneficiary of civil rights.

Inevitably the confusion desired by the enemies of our people will result and I am not being melodramatic when I say those enemies exist. The Supreme Court has completely cast aside the rule of stare decisis. And I do not for one moment criticize that august body. I have stated a fact; they have discarded the rule of stare decisis. And now the Congress of the United States is asked to change its power of legislation under article I for the limited power of judicial interpretation granted the Supreme Court under article IV.

If this decision comes to pass the people of America would be justified in embracing any suggested system of jurisprudence to be rescued from the agonies of the maelstrom of confusion thus created.

We lawyers are criticized for taking our time in our system of justice in the orderly interpretation of law. The laity does not like it, but we know that it is the only salvation to a continued democratic form of government. And when you depart from it, you throw your Nation into confusion.

As though the exchange of legislative and judicial power did not create enough confusion, these acts would then delegate both legislative and judicial power to a system of secretaries, bureaus, and commissioners. The greatest evil of all of these bills flows from the fact that H.R. 3147 would subject each and every school board member

of each and every State of the Union and each and every county or parish of that State and each and every school district of that county or parish to the domination and control of a so-called Secretary of Public Education and Welfare. These thousands of publicly elected and democratically chosen educational officials would be immediately subjected to the supervision of, yea verily the criminal prosecution by or at the whim of the Secretary of Education. The democratic choice of people throughout the United States of America and other sections and places, to its smallest educational districts or subdivisions would thus be aborted. Too late we might then come to the realization that we had made it possible—and will the committee hear me here—we would have made it possible for our enemies to contort, to convert, or to control only one man and thus have a clear and open avenue for the domination of the minds of the educational youth of America.

This Congress may through proper alertness surround the shores of the United States by a veritable ring of guided missiles, steel, and fire. Behind this bastion we may rightfully feel secure from physical invasion, and, may I say that if the Congress of the United States maintains its present alertness I have utterly no fear of a physical invasion of the United States of America. However, if the opportunity to invade, yea verily to dictate the avenues of teaching to the young educational minds of this generation is taken from the hands of the people and from the State, county, and precinct officials and placed in the hands of one centralized, unitized agency, then in such even the road is open to an invasion of America in a bloodless but certain and deplorably effective manner. The young man is there to reach. There is only one avenue they must dominate to do it under the system proposed by these bills.

Certainly, no sensible man can deny that the point of greatest vulnerability to the American way of life and democratic government is the mind of the educational youth of America. Under our present system of respecting State sovereignty in the field of education any attempt by the enemies of democratic government under the present system would be faced with the invulnerable situation that one by one he must consume the educational system of the 49, yea, verily, soon 50 States of the Union. After making his nefarious entry into the educational system of each of the counties or parishes comprising those States, and after that he would face the further impossible task of entering into and corrupting the separate educational officials in each of the districts of that county or parish. Such is the invulnerability of our present democratic way of life, but change this and place the control thereof under the authority of this so-called Secretary of Public Education, give that official complete domination of the educational system, centralize educational control as provided by this bill and the problem of the enemy is simplified to the amazing extent that all he needs do is to corrupt that one official or parties under that. And we know that that system, that that official will be so carefully chosen, that he will be invulnerable to influence, but the one system, the one channel, is still open.

The remaining bills, in one method or another, seek to centralize control of education, privilege of franchise and the administration and enforcement of law in violation of State sovereignty and place

this enforcement and administration of law in the hands of one centralized authority. Certainly, no more vulnerable situation could be created. In unity there is strength. It is both physically and sociologically true that any governmental structure or any physical object composed of laminated, coordinated elements possesses a vast multiple of the strength of any singular physical object or social structure.

These bills, howsoever well meant or intended, can have no other effect than to bring confusion and destroy democracy to the comfort of our enemies.

The introduction of these bills presupposes that great turmoil and strife and interracial conflict exists in various sections of the United States.

And may I say here now that the committee might feel that what I have to say at this juncture has the ring of asinity, but I feel that you gentlemen might in good conscience like to have a report from what I call a most concentrated area of interracial living and understanding. I say it is so small that it is asinine, but it is the thing that I know best and that is what you want, facts.

Walthall County, Miss., that is my home county, contains approximately 66 square miles. It has a total population of 14,300 persons.

Now hear this, your white inhabitants number 7,900. And non-white inhabitants number 6,400. The ratio of nonwhite to white is 44 percent. The total number of families is 3,760. White families number 2,215. Nonwhite families number 1,545. The chief industry is agriculture. Now hear, the white-owned farms number 1,532. The nonwhite farm ownership is 1,063.

Less than 500 Negro families do not own their homes. In other words, more than 66 percent of the colored citizens of our county own in one block their own industry, home, and way of livelihood in that county.

Note that white families do not have that favorable a percentage.

It will be noted from the statistics that I have given you that the subject community is almost equally divided in population and in economic pursuits.

It may be of interest, therefore, to determine just how badly such a community needs the conciliatory agencies and invasion of investigating authorities proposed by the subject legislation. That should be of interest to you.

In lieu of interracial conflict, strife or dispute this agency would find an absolute harmony, understanding and complete tranquility between all races and religions. The statement which follows is made after verification by a complete check of all county court records of Walthall County, Miss. for a period of 5 years immediately prior to this appearance, and here follows official proof of this tranquility.

First, there has been no incident or criminal charge involving a crime of personal violence such as assault or assault and battery, either simple or aggravated, between members of opposite races within the period covered by the 5-year check.

Secondly, there has been no incidence or charge arising by reason of any conflict whatever between members of opposite races even of the most petty nature, inclusive of "disturbing the peace," "disturbance of public worship," or the use of obscene language in a public place.

And I did not use those as magic words, or any petty crimes whatever.

The search reveals that during this period of time there have been only two incidents, and we are proud of this, of assault and battery arising between members of the colored race among themselves, with no members of other races involved in any manner whatsoever.

Fourthly, there have been no incidents of homicide either as willful murder, manslaughter or howsoever defined, which is simply to say that no man, white or colored, has killed or assaulted or attempted to kill or assault any man, white or colored, in Walthall County, Miss., during the 5-year period covered in this investigation. And may I say there is no magic whatsoever in selecting a 5-year period, time simply would not permit a check for a longer period.

It seems that people do know how to live unmolested and undisturbed in pursuit of their own business. Both races are independent, owning their own farms, their own homes, and living like that.

Fifth, in the midst of this scene of absolute tranquility, the agency of the secretary of education as proposed by H.R. 3147 would find under erection and scheduled for completion prior to the next school session a high school building for the accommodation of the Negroes of the county. The construction and equipping of this building involves a cost of approximately \$5 million. This figure may seem small to persons accustomed to educational buildings in wealthier areas. However, it should be compared with the largest white high school in the county which was constructed at a cost of \$220,000.

Now, if the foregoing is accurate and true, and it is true or else I have committed foolish perjury, then in such event, what earthly purpose could the proposed agency serve other than to disrupt and destroy this tranquil and progressive way of life and harmony among people?

I speak only of the community situation which I know so well but indubitably I say that all other areas would and could enjoy the same progress and tranquility and understanding as has been described if those communities and those sections had not been driven by subversive organizations into trying to legislate social equality at a time when no one whatever of either race desired it.

It is firmly believed that if strife over civil rights comes to my community, that community which I have described, it will not arise through its citizens, white or Negro, but it must be brought there and corruptly seeded there by those who intend to promote strife throughout the United States of America.

Again referring to the community nearest and dearest to me, what change do these persons desire to bring about? Would they have us perpetrate crime where there is no crime? Would they have strife where there is no strife? Would they substitute turmoil for tranquility?

When, as proposed by these acts, commissioners and bureaus of dictatorial legislative and judicial power impose themselves upon any community, strife, turmoil and confusion will result and they will be received with far less tolerance by members of the Negro race than they will by the white.

Mr. ROGERS. Thank you, Mr. Mounger. We appreciate your analysis of H.R. 3147 and thank you for covering the waterfront so to speak rather thoroughly. I am interested in how much you may be

in favor of the fact that you in your testimony, more or less, lay stress on State sovereignty and the 10th amendment to the Constitution. How do you reconcile the 10th amendment and its relationship to the 14th amendment, which places a limitation on the States. Do you recognize that while the 10th amendment reserved to the States the powers not delegated to the Federal Government that nevertheless the adoption of the 14th amendment many years later does place some restrictions on the States, does it not?

Mr. MOUNGER. Yes, sir; it does.

Mr. ROGERS. Having placed some restrictions on the States, you then would say that under your interpretation that then that became part of the law of the land, that is, the 14th amendment, as well as the 10th amendment. Let me see if I understand your reasoning when you say the Supreme Court decisions do not become the law of the land. That is your position, is it not?

Mr. MOUNGER. The statement made, Mr. Chairman, is that the Supreme Court's decision is binding only upon the parties to that decision and does not intend to proclaim the law of the land as applicable to any particular case between other parties under different facts.

Mr. ROGERS. Different facts?

Mr. MOUNGER. Yes.

Mr. ROGERS. If the facts were the same, would you say, that is, subsequent facts were similar to the one that the Supreme Court decided, would you say that the Supreme Court decision would not then become the law of the land?

Mr. MOUNGER. I say, sir, that it would. But I say that must be a question of applying that decision under the steadfast principles of American jurisprudence where the decision will be applied in any particular piece of litigation coming before the courts.

Mr. ROGERS. I would take it then from your statement that you do not feel that regardless of what the decision may be, that Congress should not enact any legislation that would implement or enforce similar facts that may have arisen out of a Supreme Court decision. That is what I take from your statement.

Mr. MOUNGER. Yes, sir. Mr. Chairman, that is the basis of the objection, that these bills would preadjudicate that the facts are the same—that is it.

Mr. ROGERS. Well, of course, the big question, as you know, is that the Supreme Court in its May 17, 1954, decision in effect said that when a State has the facilities supported by taxpayers' money, it cannot discriminate because of race, color, or creed and set aside the separate but equal facilities proposition that had been announced over 50 years. You feel that we as Members of Congress—or that Congress should not take any steps to bring about an enforcement or implementation of that decision. That is your position.

Mr. MOUNGER. Yes, Mr. Chairman, that is the position definitely stated. That when you do, you have the confusion of coordinating and supplementing the judiciary and the legislative.

Mr. ROGERS. Let us assume that we forget the judiciary. Do you deny that Congress has the right to enact legislation that would prohibit the segregation?

Mr. MOUNGER. I do not deny the power of Congress to do that, but that is not what Congress is attempting to do now, Mr. Chairman.

Mr. Chairman, the fallacy of it—and I hope that I can clearly state it—the fallacy of it is that you are by these acts attempting to adopt even unstated Supreme Court decisions as being the substantive law of the land, and you are providing a method of enforcement. Sir, that is what the bills say.

Mr. McCULLOCH. If I may interrupt there, Mr. Chairman, I do not know that I can agree with the very able gentleman's analysis. Certainly, that is not my interpretation of title I of H.R. 4457, which is the administration's bill which I introduced. The penalties for obstructing justice under that section do not refer to any Supreme Court decision in particular, but refer, of course, obviously to any order or decree that is reversed or unchanged. So, therefore, I could not agree with the general analysis and comment of the witness so far as title I is concerned of H.R. 4457.

Mr. MOUNGER. I would be inclined to agree with you that that criticism would not be applicable as to that.

Mr. McCULLOCH. There are other titles of H.R. 4457, which many of us think are a modest, sane, proper approach to some of our problems that could not be proper logically subject to the criticism that the witness put forward. In that regard, I would mention title II and, particularly, title III, because, Mr. Chairman, it is my judgment that the right to vote is one of the main bulwarks of our representative republic form of government. The exercise of that fundamental right of the citizen of a representative republic is certainly within the proper jurisdiction and sole regulation of the Federal Government, in my opinion, where the exercise of that franchise pertains to the citizen such as in voting for their President and their Vice President and the U.S. Senator or any Member of the House of Representatives. I think, Mr. Chairman, if I might do this with proper modesty that many of the provisions of H.R. 4457, if not all, are so modest that they meet the approval in most instances of this very able and distinguished witness before us.

Mr. ROGERS. I do not think that the witness, so far as I heard it, is in favor of any. At least, I do not interpret his testimony such as that. Let me put it this way, you have had an opportunity to examine H.R. 4457 by my distinguished colleague from Ohio, which, incidentally, is referred to as the "Administration bill." Do you want to leave the impression with this committee that you are in favor of any part of it, of H.R. 4457?

Mr. MOUNGER. I will say this and with no reservation, I certainly consider that the McCulloch bill, H.R. 4457, is the most astutely drawn of the entire lot and it is beautifully drawn. I think if we came down to an impasse, Mr. McCulloch, that I would say that your bill constitutes, particularly in title III, an invitation of the State's sovereignty. And that is the sole objection. And you would say that it does not. And we would be at an impasse. That is it.

Mr. McCULLOCH. That is certainly correct, insofar as it affects the election of the President and Vice President, and so forth. And it is so framed, so far as an individual is concerned, that is the field in which the Federal Government must ever be zealous of the rights of the rights granted to it by the Constitution unless our whole Federal representative system fall. I would think the same thing applied to the election process in Ohio, wherein in the olden days we were not above reproach, in Ohio.

Mr. ROGERS. May I address your attention to the reference that you made to champerty and the like. I understand you feel that it violates the various statutes to authorize somebody to go out and maintain lawsuits under H.R. 3147 other than elected officials. What is your interpretation of that?

Mr. MOUNGER. I think that appears manifest, Mr. Chairman, that here are people following their tranquil way of life all over these United States of America. And you propose by that bill to send out agencies that indubitably would bring strife, that would promote just untold litigation. That is my objection to it. I say it is champerty. It is a nasty choice of words, but that is what we accuse a lawyer of.

Mr. ROGERS. Even by a Federal agency?

Mr. MOUNGER. You cannot change the fact that it is an encouragement of litigation by simply giving it to a Federal agency rather than an individual.

Mr. ROGERS. That is your choice of words of "champerty," and so forth.

Mr. MOUNGER. That is my choice and I am going to stick with them.

Mr. ROGERS. I thought that applied to individuals, but if it is authorized, how could it be a violation of a right?

Mr. MOUNGER. Of course, it was more of a slang application. I said it was champerty in maintenance on a national scale.

Mr. McCULLOCH. I wonder if we do not have precedent—I am not familiar with that—in the Fair Labor Standards Acts and in other similar legislation that has been enacted over the past 50 years.

Mr. MOUNGER. Mr. McCulloch, yes. You have precedent, not for this thing that you now do, in your Fair Labor Standards Act, Congress occupied the field. Congress laid down the substantive law. Then provided for your commission and bureaucratic method of enforcement.

In this instance, gentlemen, I beseech you, you take the case law, the stare decisis of America, limited always by the system of jurisprudence in America to the parties litigant and the facts then applicable. And you now send these bodies out to extend those decisions to all of the people, sections, and United States of America.

Mr. McCULLOCH. I will agree with part of that statement, but not with all of it. I do not agree with that statement insofar as it affects the election process.

Mr. MOUNGER. I will hold that reservation, too, Mr. McCulloch, because the only conflict there is the conflict of opinion, and it is not becoming of me to say that, well, this is, certainly, a violation of State rights. I say that H.R. 4457 is astutely drawn and that is the only criticism.

Mr. McCULLOCH. And there are two or more, possibly three or four separate and distinct subjects covered by H.R. 4457 as to many of the things that you have so ably said that could not possibly apply to those.

Mr. MOUNGER. I thoroughly agree. I thoroughly agree.

Mr. ROGERS. Addressing your attention to this—as I understand it you do agree that the Federal Government, under the Constitution, has an inherent right to protect voting rights, at least, as it relates to election of Representatives of Congress, the U.S. Senate, and the President and Vice President.

Mr. MOUNGER. No, sir; I cannot. Mr. Chairman, the basis of American Government is that we shall send representatives here chosen by our electorate. The reference is to us. It would not be common-sense for the Federal Government then to tell us how they must be chosen.

Mr. ROGERS. Maybe I have not made myself clear. The point I am trying to establish is, if you agree under our Constitution that the Congress of the United States has the right, if it so wants, to exercise it, to see that there are free and honest elections when Representatives to the House of Representatives, Senators, and the President and the Vice President names appear on the ballots. Do you agree that we have that right to enact legislation dealing with that problem, or do you deny that we have that right?

Mr. MOUNGER. The choice of your words, sir, I answer in the affirmative that you have free and honest elections. Yes, sir; I say that. But where I do disagree with the wording of the McCulloch bill, is that you have the right to deny us the right of stating voter qualifications. We alone should have that right.

Mr. ROGERS. You feel that you alone should have that right, although it may be based upon race, color, or creed.

Mr. MOUNGER. No. No, sir.

Mr. ROGERS. Well, then—

Mr. MOUNGER. No.

Mr. ROGERS. As to qualifications as to education.

Mr. MOUNGER. That is correct.

Mr. ROGERS. Interpreting the Constitution, and so forth.

Mr. MOUNGER. Yes.

Mr. ROGERS. And things of that nature?

Mr. MOUNGER. Yes, sir.

Mr. ROGERS. Wouldn't you say that Congress does have the authority to see that the State officials who have the authority to determine that, should not at least have some supervision in the event they are abusing and violating their own laws?

Mr. MOUNGER. In the event they are abusing and violating them, and a particular case comes from that area, it should come into the Federal courts. And Congress has already occupied that field and can see to it that the law is enforced. I thoroughly agree.

Mr. McCULLOCH. May I interrupt there?

Mr. ROGERS. Sure.

Mr. McCULLOCH. That basic authority, certainly, does now exist. But if the evidence upon which the procedure is based, or which the procedure follows is no longer existent, or if it be intentionally withdrawn, then the present authority is a hollow one and cannot result in the result which comes if all of the evidence is properly stated.

I want to go on with this further. I cannot go along with the witness that title III of H.R. 4457 seeks to improperly regulate elections in any State. It only seeks to determine whether or not the local law and regulation is in accordance with the fundamental law of the land, the Constitution, and that we may say is, certainly, within the rights of the Congress to do; we maintain that. We do not in this H.R. 4457 seek to lay down qualifications for that. We only say there shall not be qualifications laid down which shall be contrary to the Constitution.

Mr. ROGERS. Counsel would like to ask you some questions.

Mr. PEET. Mr. McCulloch paraphrased President Eisenhower's words earlier that the right to vote—would agree with that statement—is a right of representative government?

Mr. MOUNGER. Yes.

Mr. PEET. Could you tell us, tell the subcommittee how many registered colored voters in your county?

Mr. MOUNGER. None, sir. May I amplify that answer. In 1956, I believe, gentlemen, there was passed the present registration or re-registration law. In that time since 1956, there have been nine Negroes who have applied to vote, or to register in that county.

May I say this right there, as to the smallness of that number, there has never been—and I confess to begin with there has never been a solicitation to the Negro to register, but there has never been an intimation of duress, or embarrassment to him in his attempt to register, and yet only nine Negroes have presented themselves for registration in that county.

They are required to take, along with white people, a stereotyped examination; it is a printed form, and it does not carry any of the fantastic questions that you heard about how many bubbles in a bar of soap—it is along the line mentioned by the chairman, a copy of a clause of the Constitution, and an interpretation thereof. Now, those Negroes were not successful in passing that examination.

And at the same time by estimate there were approximately 38 white people who were not successful in passing the examination.

And for fairness in my answer, I do not know, counselor, how many white people applied because there is no record of the successful applicants.

Mr. PEET. How many whites live there?

Mr. MOUNGER. There would be approximately at this time—this is what we term an off political year—we would have about 3,800. That is an estimate, sir, of votes, registered votes.

Mr. PEET. Assuming *arguendo* that the decision of the Supreme Court is the law of the case rather than the supreme law of the land, do you as a lawyer question Congress' right to enact the decision into the law of the land at some future time. In other words, to enact the law of the case into the law of the land.

Mr. MOUNGER. Except for the one question, sir, that I would regard it as a violation of State sovereignty, the question that we have just about exhausted—I would never question the power.

Mr. PEET. Take the segregation issue, in other words, what I started to say, it applies to particular facts of that case, bearing upon that case within era within the jurisdiction of that court, does the Congress then, if it agrees with that decision, have the power to make that decision one of national scope by enacting it into statute?

Mr. MOUNGER. Enacting it into substantive law, yes, I say Congress has the power to do that subject to the one criticism that I have given and must repeat, that I regard that that would be a violation of State sovereignty.

Mr. PEET. To enact a decision of the Court into national law would be a violation of State sovereignty.

Mr. MOUNGER. You have a question there. If you reiterate as substantive law, any given legislative enactment you are not depend-

ent at all upon the stare decisis for the content or purport of the decision. I would have to see that act itself before I could answer that question.

Mr. PEET. I was not intimating enforcement of any particular act, but I just wanted an answer to the general question.

Mr. MOUNGER. I think that I would have to answer your question in the affirmative, but the substance of the law would control the constitutionality. Yes, sir, I see your question.

Mr. FOLEY. If Congress merely said, as to the form, what the State must do, under the equal protection program of the 14th amendment that would not be a violation of State sovereignty.

Mr. MOUNGER. I would have to agree with you with qualifications. I would have to see that act, the way you worded it, before I could say. In substance, with qualifications, I must agree.

Mr. PEET. May I put this question?

Mr. MOUNGER. Yes.

Mr. PEET. May the Congress overturn a decision of the Court by a statute?

Mr. MOUNGER. Yes, sir, within the constitutional power, certainly, sir. That is frequently necessary to administration of government. But when you do, you enact into substantive clear law that which you were trying to say. And then the Court's decision is no longer law provided you were within your constitutional power.

Mr. ROGERS. Thank you, Mr. Mounger, we appreciate your coming all the way up here to give us the value of your statement and the interrogation. It was, certainly, helpful to us.

Mr. MOUNGER. Thank you, Mr. Chairman.

Mr. COLMER. Thank you, Mr. Rogers.

Mr. ROGERS. Now, the next witness is Capt. John B. Minnick, U.S. Marine Corps Reserve, retired, of Arlington, Va.

Captain, come forward, sir.

STATEMENT OF CAPT. JOHN B. MINNICK, U.S. MARINE CORPS RESERVE, RETIRED

Captain MINNICK. Mr. Chairman, members of the committee, I am humbly grateful for this opportunity to exercise my civil rights.

Mr. ROGERS. Yes, sir. You have that privilege now and to express your thoughts you can either stand or be seated. Proceed in your own manner.

Captain MINNICK. I am also grateful to have this opportunity to follow the learned discussion which has taken place here this morning and I hope that I may be able to supplement and add to that discussion.

I have filed 12 copies of a statement, as you requested, Mr. Chairman, and as you can see most of that statement has to do with the rules.

So at the outset it might be wise to just look at section 133(e) of the Legislative Organization Act of 1946 which governs the rules of committee procedure in that it provides for the filing of statements and limits the witnesses to summarizing their argument. In that regard, I have prepared a summary of my statement.

But, Mr. Chairman, I am not here to argue—

Mr. ROGERS. May I interrupt you.

You have prepared a statement that you would like at this time to be inserted in the record?

Captain MINNICK. Yes, sir.

Mr. ROGERS. And then summarize it?

Captain MINNICK. And I am going to summarize it for you now.

Mr. ROGERS. Well, then, we will place your written statement in the record at this point and you proceed in your own manner in summarizing this statement and give us the benefit of any information that you may have to assist us in determining the proper course that we should take in the enactment of this legislation.

(The complete statement of Capt. John B. Minnick is as follows:)

STATEMENT BY JOHN BRADLEY MINNICK ON PROPOSED CIVIL RIGHTS LEGISLATION BEFORE SUBCOMMITTEE NO. 5 OF THE HOUSE COMMITTEE ON THE JUDICIARY, 86TH CONGRESS, 1ST SESSION, APRIL 17, 1959

Mr. Chairman, members of Subcommittee No. 5 of the House Committee on the Judiciary, I am humbly grateful for this opportunity to testify upon the pernicious character of the proposed civil rights legislation.

I am John Bradley Minnick of Arlington, Va. I am a U.S. marine with the rank of captain on the retired list. I am a public lawyer by vocation and a Sunday school teachers by avocation. I am a bachelor of arts from Amherst College with majors in philosophy and geology. I am a juris doctor, that is to say a doctor of law, from the George Washington University Law School. I am a former student editor in chief of the George Washington Law Review, the only law review which is devoted exclusively to public law. I have served as a law clerk under the late Chief Judge Harold M. Stephens of the U.S. Court of Appeals for the District of Columbia Circuit. I am a member of the Virginia State Bar and I have been admitted to practice before the Supreme Court of Appeals of Virginia and the Supreme Court of the United States. I have been engaged in the private practice of law in Fairfax County, Va. I have served as the substitute trial justice and judge of the Juvenile and Domestic Relations Court of Fairfax County. I am now serving the United States in the capacity of a trial lawyer in the office of the Chief Counsel for the Internal Revenue Service of the U.S. Treasury Department. I am a citizen of the United States by birth and of the Commonwealth of Virginia by residence. I am a natural born native son of the sovereign State of New York and I am a direct lineal descendant of English and Dutch colonists, American revolutionists, New England abolitionists, and the Calvinistic theocracy.

I came to be interested in civil rights in general, and the racial problem in particular, through my studies of history and government in the public free schools in the sovereign State of New York. My interest increased as I continued upon the national educational pathway through college, private enterprise, law school, the U.S. Marine Corps, and the private and public practice of the law.

My peculiar bent for extracurricular activities led me directly into my own independent study, investigation and work which comprise my own personal knowledge and experience concerning the particular subject matter of my testimony before this subcommittee today.

In 1955, and during the course of the public discussions and debates and upon the Report of the Gray Commission in Virginia, I observed that both sides to the dispute were deliberately confusing the issue by refusing to face the problem. The various factors involved did not add up. I not only wondered why but I also determined to find the answers.

The reason why the factors did not add up, as I soon discovered, was because of the false and misleading arguments advanced by the Department of Justice in the so-called school segregation cases.

You are now considering proposed legislation which, on its face, is intended to perpetuate and compound those false and misleading arguments. This is why I characterize the proposed legislation as pernicious. It not only seeks to avoid a confrontation with the problem, but it shows a total lack of effort to come to grips with the real issues involved.

The purpose of my testimony is to present the matter by means of the objective method of problem analysis which is the democratic way as distinguished from

the subjective method of dialectical reasoning which is the Communist line. The objective method of problem analysis consists in asking and seeking the answers to the five principal questions, namely: What? where? when? how? and why? I have followed this method through the ramifications of the massive mountains of legislative conflict, executive ambiguity and judicial confusion.

Are there any questions before we start through the barriers of pride and prejudice?

To begin with, the problem of racial equality is as old as the civilization of mankind. It commenced with an Act of God when the races were separated by the descendants of the sons of Noah. According to Holy Scripture, racial equality is not to take place until the coming of the Lord in Glory. According to Orthodox Judaism, the Lord has not come. According to Orthodox Christianity, the Lord is coming again in glory. Accordingly, before we get started, we find we are dealing with a moot theological question that not even the leaders of the church dare to discuss with me. Why do we have the problem? According to Holy Scripture and the prophecies contained therein, we have the problem in order to prepare the way for the coming of the Lord in Glory, and if there be any man who doubt my word, let him stand up and search his heart and mind before he speaks. It is written, "I will write My laws upon their inward parts and in their hearts and they shall be My people and I shall be their God" thus saith the Lord God of Hosts, Maker of heaven and earth and all that therein is. The faithful shall inherit all things but the fearful and unbelieving shall be burned in the second death.

The opinions, decisions and judgments of the Federal judiciary in a moot case are the proximate cause of the legislative problem with which this subcommittee has been confronted.

Brown v. Board of Education of Topeka, Kansas was a moot case for many reasons, but principally because of three major factors, none of which have been made a real part of the general fund of public knowledge and information.

The case was first mooted by the stipulation of equality filed by counsel for the plaintiffs in order to raise an abstract psychological question for the first time in litigation of this sort before the Supreme Court of the United States. The stipulation of equality left no basis in fact for the operation of the rule of law sought to be applied. Upon the effect and question of mootness see the argument of the Solicitor General of the United States in the case of *Taylor v. McElroy*, No. 504, argued before the Supreme Court of the United States just 2 weeks ago.

The principal case (*Brown v. Board of Education*) was mooted by the action of the Board of Education of Topeka, Kans., when it established its own plan to eliminate separate schools in Topeka, there being no State law or constitutional provision to the contrary.

All five of the cases were moot on the law because Congress had acted in very definite and dispositive ways, the history of which was not considered by court or counsel. In fact, the laws of the United States for such cases made and provided were neither raised, presented, briefed, cited, argued or otherwise put in issue so that the people might inform and govern themselves accordingly.

Under such circumstances, the defendants were entitled to dismissal as a matter of right in accordance with the rules in that regard laid down by the Supreme Court of the United States.

The current conflict of opinion raised by the judicial attempt to determine an abstract psychological question stems directly from the supremacy clause of the Constitution of the United States. This is one of the major constitutional issues involved in the racial problem which our leaders are afraid to debate with me.

To understand the issue, you must understand how the supremacy clause works and you must be able to distinguish between rules or order, administrative regulations and rules of court. In short, the issue takes us squarely into the basic and fundamental concept of the separation of our powers of Government into three separate and distinct branches with separate and distinct functions.

Accordingly, and at the very outset, we discover that the problem is racial but that the issues are constitutional.

What is at the bottom of all this fuss and fury? Where did it come from?

As already noted, the opinions, decisions and judgment of the Federal judiciary in this matter stem directly from the false and misleading arguments advanced by the Department of Justice and which have been swallowed up by the church, the press, and the political parties like Jonah was swallowed by the big fish. All of which reminds me of a story attributed to Bishop Sheen. It is

said that after one of his sermons or talks on the story of Jonah and the whale a man in the back of the room rose to inquire if the whale really swallowed Jonah. The bishop replied, "I'll ask him when I get to heaven." But the questioner was not to be put off so easily, so he rejoined, "But Bishop, suppose Jonah did not get to heaven?" Quick as a flash, the bishop fired back, "Okay, you ask him!"

And so it is with us today. We are loaded with doubts and fears, conflicts and misapprehensions. Instead of working out the problem, we try to fight it, even to the extent of the illegal use of troops to enforce the theoretical preaching of one side upon the hearts and minds of the other side. And what is this theoretical preaching? It is simply the false and misleading arguments advanced by the Department of Justice in the segregation cases.

First, it was argued in the briefs and orally before the court that the Congress of the United States had never done anything about the question of separate schools in public education. This is an absolutely false and misleading argument. The acts of Congress in this regard are published, codified, and indexed. No lawyer, judge or justice, or lawmaker, can be heard to say he did not have knowledge and notice.

Second, it was argued in the briefs and orally before the court that the court and Congress have concurrent jurisdiction to enforce the provisions of the 14th amendment. This is absolutely false and misleading. There is no such thing as concurrent jurisdiction between the legislative and judicial divisions of our powers of Government.

Where did all this conflict, ambiguity, and confusion come from?

It has come out of many places, but in particular it can be traced directly to the rules. This leads directly into a third constitutional area because of the delegation to the Supreme Court by the Congress of the United States of constitutional functions which are vested in the Congress by the Constitution of the United States. I am talking about Article I and Article III of the Constitution and about section 2071 of Title 28 of the United States Code as amended in 1949 and section 3771 of Title 18 of the United States Code, as amended in 1949.

The rules are actually the biggest stumbling block in the whole matter.

As noted above, I cautioned about keeping the rules of order, administrative regulations, and the rules of the court separately cataloged in your thinking else you will become hopelessly lost in the wilderness of legislative conflict, executive ambiguity and judicial confusion out of which I am trying to lead you.

When the rulemaking function was transferred from Congress to the Supreme Court, it was done as a perfunctory matter of routine legislation upon recommendations from the executive and judicial branches with the support of the American Judicature Society, the American Bar Association, and other interested groups of which I am a member.

Ordinarily, we would look at the rulemaking function and say of course that is the function of the particular body concerned. The Constitution provides that each house of Congress shall make its own rules so why shouldn't the courts enjoy the same privilege?

This takes us back to the beginning again and also into the supremacy clause. Where did it all start? Aside from Holy Scripture, we are looking at the problem from the time of the creation of our republican form of representative self-government which forms the basis and foundation of our democratic society.

For Americans, it started with the original Virginia Declaration of Rights adopted June 12, 1776, by the House of Burgesses at Williamsburg, and from which and the preamble to the first Constitution of Virginia, Thomas Jefferson wrote the Declaration of Independence and Massachusetts framed her Bill of Rights and so on with the other States and all of which antedated the Constitution.

What happened in the summer of 1787?

Two things happened. The Northwest Ordinance was adopted by the Continental Congress and the Constitution of the United States was framed. Both of these documents are included in House Document No. 398, 69th Cong., 1st Sess., 1927, entitled United States, Formation Of The Union, Documents. See also, Senate Manual, 86 Cong., 1st Sess., 1959.

The Northwest Ordinance states our belief in education and the Constitution of the United States states the supremacy of the law.

Question, How does it work?

It works through the corollary enacted by the first Congress of the United States and which is still in the law today. It is known as the Rules of Decisions Act. It is section 34 of the first Judicial Code, first Congress, 1st Sess., Chapter 20, 1789, 1 Stat. 73, 92, now 28 U.S.C., section 1652.

Why?

The supremacy clause of the Constitution of the United States and its corollary, the Rules of Decisions Act, were the answer to the problem.

What was the problem?

The problem was how to establish a strong central Government without destroying the States.

What fears and doubts, conflicts and misapprehensions did this problem arouse?

Men were afraid that the Federal Government would swallow up the States like the whale swallowed Jonah.

What was done to ease their fears and allay their misapprehensions?

Checks and balances were written into the Constitution in lieu of prefacing it with our Bill of Rights.

What was one of the checks and balances?

One of the principal checks and balances is found in Article III, section 2, Clause 2, second sentence.

What has happened to that check and where is the balance now?

The check is gone and the balance has been delegated by the Congress of the United States to the Supreme Court. This was done immediately preceding the filing of the so-called school segregation cases in the Federal District Courts.

Ordinarily, we might say why bother with all this business about the rules. It is only necessary to look at the rules to see what has happened in order to find the answer. The old rules were thrown out and new rules were promulgated. What rules were thrown out?

All of the old rules were thrown out including rules 15 and 16 which are the rules relating to evidence. Why should we have rules relating to evidence in the Supreme Court? In Article III we find that the court has original jurisdiction in a number of cases and that it has appellate jurisdiction both as to law and fact in all other cases. In order to exercise its judicial function it must have some rules of evidence. The rules which had been established by Congress and which had become the supreme law of the land by constitutional definition were thrown out by indirection and delegation of authority.

What do we have in place of the law? We have judicial machinery geared to oral argument without regard to the rules of evidence. The segregation cases were treated as if they had been brought under the new rules. Instead of examining the facts and the evidence, the court examined the social theories advanced by means which would have been inadmissible at the trial level.

Laws are made in pursuance of the Constitution in accordance with the rules of order.

Judicial decisions are made to settle disputes between adversary parties in accordance with the rules of court which include the rules of evidence.

Administrative determinations are made to execute the laws in accordance with the regulations.

Judicial judgments are made in accordance with the law and the regulations in that regard. But when all the power is centered in one branch, the people have no voice in the matter.

The proposed civil rights legislation would perpetuate the abuses and compound the errors. It would leave the people without a voice. We have no spokesman and we have not been permitted to speak for ourselves. To further this pernicious practice, these proposed bills have been introduced for your consideration.

As one man who has given his life blood and limb for God and his country, I am unalterably opposed to the vicious, mean and despicable provisions of this kind of legislation.

But I do not believe in opposition for the mere sake of opposing. Unless there is a better plan, opposition serves no useful purpose.

I do have a better plan. It is simple, unambiguous and one which can be understood by the people in the north, south, east, and west.

First and foremost, the whole record of the segregation cases should be opened for public inspection to determine whether an erroneous judgment in a moot case should be allowed to withstand the test of time.

Second, the whole matter of the reconstruction and related Acts of Congress including the restrictive provisions imposed upon the sovereign States of Virginia,

Mississippi, and Texas under the Admission Acts of 1870, should be reexamined and the obsolete and unconstitutional parts remaining should be repealed.

Third, Congress should reaffirm and reestablish the rule of law as it is evidenced by the Acts of admission of the new States, the Land Grant Acts in support of the public schools, and the Third Morrill Act providing for continuing appropriations in support of the land grant colleges.

Fourth, section 2071 of title 28 and section 3771 of title 18 should be repealed.

Fifth, the old rules of court should be reestablished and especially the old rules 15 and 16 relating to evidence.

Sixth, public discussion of the racial problem and debate on the constitutional issues should be encouraged and developed.

Seventh, the Attorney General, the Solicitor General, and the Department of Justice should be reminded that questions involving the construction of the Constitution of the United States cannot be delegated by the Attorney General to his subordinates.

Eighth, the whole business should be given more careful thought and consideration from the beginning.

Are there any questions?

Captain MINNICK. I would like to make a few explanatory remarks to commence with.

First, the reason why I am here. I have conducted my own independent study and investigation into this problem and I have been engaged in it for some period of time.

My studies were accelerated by the report of the Gray Commission in Virginia, which was published in 1955, because for some reason or other that report did not add up, there was something missing, and I attended hearings and participated in some of the public discussions and debates on that report.

One of the points that I made at that time was that both sides to the controversy were deliberately confusing the issue by failing to meet the problem, and I tried to find out why the various factors didn't add up.

Now, as appears in my statement, I am a public lawyer. I am also a Sunday school teacher. One of the reasons why the factors don't add up is because we have not considered the fundamental principles and where they come from and what they are, and I have here in my hand a copy of the Holy Bible.

It didn't take long to find out where the missing factor was. Any lawyer can find it, because it is a matter of public record. It is contained in the record of the segregation cases, namely, *Brown v. Board of Education* and related cases.

The trouble with this whole problem is directly attributable to the false and misleading statements advanced by the Department of Justice, and that takes us right into the legislative problem. What is it?

Now, I want you to understand that in my presentation and analysis here today, I am presenting this in the objective method of problem analysis which is the democratic method, that is to say, you ask the questions: What? where? when? how? and why?

And when we find the answers to those questions, we know what we are doing.

Now, what is the problem? What is the legislative problem presented by these bills?

I have some of them here.

The problem is racial in character.

Mr. ROGERS. Racial, what?

Captain MINNICK. Racial—the legislative problem is racial in character.

Mr. ROGERS. Inheritance?

Captain MINNICK. In character.

Mr. ROGERS. In character. Oh, racial in character.

Captain MINNICK. It is religious in concept. It is political in purpose, but it is constitutional in scope. It is legal in theory, but it is jurisdictional in fact. It is social in study, but it is economic in life.

Where did it come from? Where did the racial problem come from?

All we have to do is read the Bible because the story is in the 9th and 10th chapters of the Book of Genesis.

When did it start? It started with the beginning of civilization.

How was it resolved? It was resolved in the beginning by an act of God, separation of the races.

Mr. ROGERS. I take it that you now interpret the Bible that there should be a complete separation of the colored man from the red man, the red man and the white man. Is that your interpretation?

Captain MINNICK. We haven't come to interpretation yet, Mr. Chairman.

Mr. ROGERS. Well, I thought you——

Captain MINNICK. I am examining the problem in the objective manner. We are looking to see what it is, where it came from, when it started, how was it resolved in the beginning.

We are studying it from the beginning. And why we still have it?

We will have it because of the prophecies which are contained in this book. You will no doubt wish to question me on those statements when I am through with my analysis.

What is the political issue involved here?

The political issue is racial equality. And where did it come from? It likewise comes from the Bible.

Why?

When did it start?

It started with prophecy. And how was it resolved? And it was resolved by prophecy.

What is the prophecy and where do you find it? The 19th chapter of the Book of Isaiah, commencing with the 23d verse. Why do we still have it? Because of the prophecy. What is that prophecy? We shall have racial equality upon the coming of the Lord in glory.

We have the problem in order to prepare for the coming of the Lord.

Now, what is the national answer to this problem?

And the answer is the law.

What is the law? The supreme law of the land, the Constitution of the United States, and the laws of the United States which shall be made in pursuance thereof.

Where did it come from? It came out of debate, discussion, deliberation.

When was it formulated? When was the law formulated? Over a long period of time, over a period of years, commencing with the formation of this Government, right down to, through, and including the year 1959.

How was it formulated? The law and all that we have with which we govern ourselves is formulated under the rules. And why? In

order to answer the problem, to settle these disputes. That is why we have it.

And what is the public problem right now that we are talking about? What are these bills directed at?

Two particular things. One is separate schools in public education. The other is voting.

Where do these problems come from?

The particular problem that we have today is not a new problem, although it came into the national focus with the decisions of the Supreme Court in the segregation cases. I don't think anybody will deny that.

And so when did this problem arise that we are considering right here today?

Now, the voting issue, the voting problem had been discussed in committee for several years prior to the segregation decisions. The segregation decisions had accelerated the discussion of the voting issue, and the records of the hearings on civil rights both before this committee and the Senate committee give silent witness to that fact.

Now, what have we got here?

We have a public problem which is separate schools in education and we have an opinion of the Supreme Court which has been declared through the presses, throughout the land as the law of the land. And we have two sides here fighting the problem—in my own personal experience in this matter, both sides are unwilling to listen, and I thank God that this committee is willing to listen, because this is the democratic process.

Consider the aftermath of those decisions and the confusion of the rules as a result of those decisions and remember behind those decisions is the confusion of the rules.

Now, when did the problem first arise about separate schools in public education? Obviously it arose immediately after the Civil War. There had been no problem about separate schools in public education before that time, because we had them, even in Massachusetts. How was this problem resolved?

It was resolved by the acts of Congress and this leads us directly into the question of the public law and the false and misleading statements advanced by the Department of Justice and how this whole thing got started.

What is the public law?

The public law is twofold. First, that the States shall have exclusive control over their public schools for ever and second—there is also a qualification to that. The States shall have exclusive control over their public schools forever, including the right to establish and maintain separate schools and public education. Where does that come from? It comes from the act to admit the State of Oklahoma.

And what is the second part of the public law? There should be no distinction in public education on account of race or color, provided that separate schools heretofore or hereafter established shall be held to be a compliance if the funds are divided equitably.

Where does that come from? It comes from an act of Congress. Both of these laws come from acts of Congress, published, indexed, codified.

The third Morrill Act of 1890 which followed directly upon the debates in the 51st Congress on public aid to education.

When I asked the attorney general of Virginia about these things and whether these points had been raised in the segregation case, he said they had not.

And when you examine the record of these cases, what do you find?

Among other things you find that the Court asked these questions. The Court wanted to know the answers. You can find that counsel did not provide the answers. Why? Because they hadn't done their basic research. You also find the briefs and oral argument advanced by the Department of Justice. And what is it? It was based upon two principal premises, first that Congress had never done anything about separate schools in public education, which was absolutely and utterly false. The actions of Congress were published and indexed. There is no lawyer, judge, or justice, or lawmaker, for that matter, who can be heard to say that he did not have knowledge and notice.

What was the second false and misleading argument advanced by the Department of Justice? It was in this wise: That the Court and Congress have concurrent jurisdiction to enforce the provisions of the 14th amendment. That is absolutely and utterly false. There is no such thing as concurrent jurisdiction between the legislature and the judiciary, or else our basic fundamental concept of the separation of our powers of government has no meaning.

Why were these laws made by the Congress of the United States? They were made to settle this problem. They were made to establish the national policy; and to have an opinion of the Supreme Court based upon false and misleading arguments is certainly no way to run a government.

What is the congressional problem today involved in these bills? Your problem, gentlemen, and the problem of the whole Congress of the United States is what to do with a moot case, namely, *Brown v. Board of Education* and related cases. Where did this moot case come from? Why was it a moot case? How did it happen?

The case was mooted on the facts, first, and this is a matter of official public record, by the stipulation of equality filed by counsel for the plaintiffs. When that stipulation of equality was filed, there was no question of fact left upon which to apply the rule of law sought to be enforced in that case.

The case was mooted secondly by the filing of a plan to eliminate separate schools in Topeka, Kans., by the board of education of that city, there being no State law or constitutional requirement in Kansas to the contrary.

The case was moot on the law because Congress had acted.

Counsel for the plaintiffs in public statements and private statements before student bodies and others has said, has given the reason why that stipulation of equality was filed. It was filed in order to raise an abstract question, an abstract psychological question before the Supreme Court of the United States for the first time.

Gentlemen, that is the definition of a moot case. A moot case is a case which seeks to determine an abstract question.

Now, these reports purport to make an opinion in a moot case the supreme law of the land under the supremacy clause of the Constitution. That is why I have in my statement referred to the provisions

of these bills as pernicious because they perpetuate and compound the mistakes and errors that have been made.

How did the mistake happen? Well, it is just as plain from the record because they didn't do their basic research, because false statements were made and, thirdly, because of the delegation of constitutional functions to the judiciary by the Congress of the United States.

Let us consider for a moment the science of mathematics.

In the science of mathematics when a mistake is made, it can be corrected by the process of adjustment. When the factors don't add up, someone has made a mistake. We go back through the columns and find out where the mistake was made and correct it.

In the science of government, when a mistake is made, someone has abused his discretion, committed an error of judgment. How do we find it? We go back through and look for it. How do we correct it? We correct it by legislation. It is happening all the time, case after case of decisions before the Supreme Court have been corrected by legislation. Only this past session one such case arose, the steamship case where after years of litigation an independent steamship company had finally won its point. What happened? The decision was invalidated by an act of Congress within 3 months of the time the decision was handed down.

What is the constitutional issue involved in this thing? And you gentlemen have discussed it already this morning. It involves the supremacy clause, the separation of powers, delegation of functions, and the confusion of the rules.

Where did the supremacy clause come from? It came out of debate. Here is the story of it, documents relating to the formation of the Union. This is an official public record, 69th Congress, 1st session, House Document No. 398, Documents Illustrative of the Formation of the Union.

The supremacy clause came out of those debates in Philadelphia. Why? Because they had a problem. What was the problem they had to settle? The problem was simply this: How to establish a strong National Government without destroying the States.

How was it done? The supremacy clause and its corollary.

What is the corollary to the supremacy clause of the Constitution? Section 34 of the first Judication Code enacted by the Congress of the United States in 1789, and it is still in the law today, codified in the United States Code, title 28, section 1652. It is known as the Rules of Decisions Act, and it makes State law the rule of decision unless the Constitution or laws of the United States otherwise provide or require.

In the segregation cases, the Constitution and the laws of the United States did not otherwise provide or require. As a matter of fact, the laws of the United States under the 14th amendment provide for separate schools and public education and those laws were not raised. They weren't briefed, cited, or argued, or otherwise presented.

What is the jurisdictional issue? Simply this. The Federal judiciary does not have jurisdiction in these cases. Why? Because under the rules of the Supreme Court the defendant in a moot case is entitled to a dismissal as a matter of right.

Now, the Congress has delegated its functions under article 3, section 2, clause 2, the second sentence, to the Supreme Court. That was one of the checks and balances written into this Constitution in lieu

of prefacing it without Bill of Rights. And what do we have under that delegation of authority? A confusion of the rules.

What happened happened in 1949 when Congress finally delegated away its functions under the Constitution? The Supreme Court immediately engaged itself in throwing out the old rules, and what rules were thrown out? All of them, including rules 15 and 16. What are those rules? Those are the rules relating to evidence.

Mr. ROGERS. Mr. Minnick, as I understand it, you have summarized your statement.

Captain MINNICK. Yes, but I wanted to get on into the corrective action.

Mr. ROGERS. Into what?

Captain MINNICK. Into the corrective action, and conclusion.

Mr. ROGERS. Well, I don't want to cut you off, but we are somewhat limited to time here.

Do I understand that you are now serving the United States in the capacity as a trial attorney down at the Treasury Department?

Captain MINNICK. Yes, sir.

Mr. ROGERS. Could you finish up shortly?

Captain MINNICK. Yes, I would like to make recommendations because opposing isn't worth anything unless there are some constructive recommendations that come out of it.

Mr. ROGERS. Could you summarize the recommendations as to these respective bills?

Captain MINNICK. First of all the most important recommendation that I can make is to open this matter up for further public discussion and debate.

Mr. ROGERS. You don't think that discussion of it, fighting the Civil War, all that has been discussed enough.

Captain MINNICK. There are undisclosed elements here that have not been presented and are not a part of the public information.

Mr. ROGERS. Do you have those undisclosed elements?

Captain MINNICK. Those are the elements that I have been talking about here, principally the record in the segregation case.

I also would like to recommend in addition to further public discussion and debate that the record of those cases be open for public inspection.

Mr. FOLEY. What records are you talking about, sir?

Captain MINNICK. I am talking about the records of the proceedings in Brown against—

Mr. FOLEY. You don't mean the court's deliberation?

Captain MINNICK. I mean the briefs and the transcripts of the record.

Mr. FOLEY. Well, that is public record now, sir.

Captain MINNICK. But we can't talk about it.

Mr. ROGERS. Why can't you?

Captain MINNICK. I have been trying to talk about it for 3 years and my work in this regard has been suppressed at local, State, and National levels.

Mr. ROGERS. Well, there is nothing to keep you from looking at all the briefs, going out to Topeka, Kans., looking at the Federal decision out there.

Captain MINNICK. That is true. There is nothing to prevent it and that is what I have been doing. That is why I am here today, to talk some more about it.

Mr. ROGERS. Well, I don't think we are interested in an opinion that has already been decided. We can't relitigate that suit, even if we wanted to.

Captain MINNICK. That comes into the question of practice and law.

The practice of the law in this country has been such that constitutional problems have been relitigated from time to time.

Mr. ROGERS. I am talking about this committee.

Captain MINNICK. As far as this committee is concerned I am pointing out that it would be a mistake to perpetuate and compound the errors that have been committed by enacting this kind of legislation.

My further recommendations would be to make an investigation and reexamination of this whole matter from the beginning. That is what a hearing is. A hearing is an investigation into a controversial matter and this certainly is a controversial matter and there are undisclosed areas here as far as the public information is concerned.

I would further recommend that in place of this kind of legislation that the Congress consider reaffirming and reestablishing the basic fundamental principles as evidenced by the act of Congress not by an opinion of the court in a moot case.

Mr. ROGERS. I appreciate your appearance. The time has now arrived for the committee to recess.

We meet again next week.

Thank you, Captain Minnick, for appearing before us.

Captain MINNICK. Thank you for permitting me to appear.

(Whereupon, at 11:45 a.m., the subcommittee recessed, to meet at the call of the Chair.)

CIVIL RIGHTS

WEDNESDAY, APRIL 22, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:10 a.m., in room 346, Old House Office Building, Hon. Emanuel Celler presiding.

Present: Representatives Celler (chairman), McCulloch, and Rogers.

Also present: William R. Foley, general counsel of the subcommittee, and Richard C. Peet, associate counsel.

The CHAIRMAN. Let the committee come to order.

I note the presence of our distinguished colleague and most worthy member of our committee, Brother Tuck, and I understand he wishes to introduce one of the important witnesses this morning, more particularly the Honorable J. Segar Gravatt, attorney at law at Blackstone, Va., and the Honorable Ernest W. Goodrich, Commonwealth's attorney for Surry County, Surry, Va. We will be very glad to hear from you, and to hear the two distinguished gentlemen mentioned.

I also note the presence of our distinguished colleague from South Carolina, Representative W. J. Bryan Dorm, and I am happy to have him with us, and also our distinguished colleague from Mississippi, Mr. William Colmer, and we are glad to have him with us, and the Representative from the State of Virginia, the Honorable Watkins M. Abbitt. All these gentlemen are most welcome.

Governor.

Mr. TUCK. Mr. Chairman, I appreciate the courtesy extended to me by you as the chairman of our subcommittee and as the chairman of our full committee. We do have two very outstanding southside Virginians here this morning. They are both lawyers of great distinction and ability who have established themselves thoroughly in the country and are held in great esteem at the bar, as well as by the people of southside Virginia.

They are my long-time friends. I have known them for many years and I have unbounded confidence in their judgment and in their ability and their understanding of the fundamental principles of law.

One of them is a judge in the courts, the Honorable J. Segar Gravatt. He comes from a very distinguished Virginia family. His people have served in many public stations of life of our great Commonwealth since its history began.

The same may be said of the Honorable Ernest W. Goodrich, who is now the Commonwealth's attorney of Surry County, Va., which is

one of those old eastern Virginia counties that lays on the south side of the James River, opposite the island of Jamestown.

I am sure, too, that he will have a message that will be of interest to the members of this committee, the Members of the Congress in general and to the people of the Nation.

They have with them their representative in the Congress. I do not have the honor to represent that great section of Virginia, although the section which I do represent is also a proud section. But they have with them their Congressman, the Honorable Watkins M. Abbitt, and I would like to call on him to present them as they appear.

Mr. ABBITT. Mr. Chairman, I am not going to trespass on your time because Governor Tuck has introduced these gentlemen admirably. I would like to join in the words he said. These are two outstanding Virginia attorneys, learned in law and I will just present them to the committee.

I would like to first present the Honorable J. Segar Gravatt of Blackstone, Va. He is a county judge and long recognized in legal circles throughout the entire Commonwealth as an able and honorable constitutional lawyer. He is held in high respect in the legal profession throughout the width and breadth of our great State and I want to present the Honorable J. Segar Gravatt at this time.

**STATEMENT OF HON. J. SEGAR GRAVATT, ATTORNEY AT LAW,
BLACKSTONE, VA.**

Mr. GRAVATT. I appreciate my good friend, Governor Tuck, being here and presenting me to the committee.

The CHAIRMAN. You may be seated, if you wish.

Mr. GRAVATT. I prefer to stand, if you allow me, sir.

Sir, it will not be my purpose to undertake to argue any of the controversial issues which surround and are involved in the bills which you have before you for consideration, known as the civil rights bills. I do want, however, to call to the attention of this committee certain facts which I think are controlling and which bear upon the wisdom of the enactments which you have before you.

The only question that legitimately should be considered by men who have the interest of our country at heart is the question of whether or not these measures will benefit anybody, whether or not they will promote the welfare of anybody. I realize that these measures are directed, as their language proclaims, at certain areas of the country which have not been as quick to conform to the ideas of some with respect to mixing the races in the schools, and in other avenues of life and that that means that they are directed primarily against the southern section of the United States.

I do not undertake to speak for any part of that area of our great country, except for that part with which I am intimately familiar, the State of Virginia, and it is with respect to certain conditions and certain facts which exist in Virginia and which anybody, who knows anything about Virginia, knows exist that I wish to call to your attention.

The first of these is that the people of Virginia are deeply convinced that the decision of the Supreme Court of the United States of May 17, 1954, represents an invasion of the fundamental consti-

tutional system of government under which we live, which is of vital importance not only to them, but to the people of America.

I would briefly call to your attention the basis upon which that belief lives in the minds of the people of Virginia. First those who framed the Constitution of the United States were fearful primarily of one thing. They were deeply fearful of power reposed in the hands of men. They knew that no man can be trusted with power; they knew that men are selfish and men are weak and men are greedy. They had just come from under a hundred and fifty years of experience with the exercise of arbitrary power in all departments of their lives and when they sat down for the purpose of undertaking to organize a system of government that would preserve for all generations of Americans the liberties that had been won at such great cost, they undertook to delineate and to define power and to control power.

The control of power, if you please, sir, has been the problem of government throughout the history of mankind. And under our Constitution for the first time a means was devised by which power would be divided and power would be limited. Our Government first was divided; the power of our Government was divided between the Federal, the central government, and the States; and then that power which was reposed in the Federal Government was divided between the legislative and the executive and then the judiciary was established as the instrument which would forever guard and protect that division and that distribution of power between the States and the Federal Government and between the departments of the Federal Government.

The only legitimate way to interpret a written constitution, if it is to mean anything, if it is to be permanent, is to determine the purpose and the intention of those who framed it and those who adopted it.

The 14th amendment was adopted by the 39th Congress. Nobody understood when that amendment was adopted that it withdrew from the States the power to operate public schools, separate on the basis of race. The Congress itself which proposed the amendment for adoption operated, maintained, and appropriated money for a public school system in the District of Columbia in which the races were separated. Not only the Southern States controlled, as they were, by a government that has been imposed upon them by military authority, maintained and operated schools separately on the basis of race at the time of the adoption of the 14th amendment, but a vast majority of the Northern States so operated their schools—Ohio, New York, New Jersey, Pennsylvania—practically every State in the Union which had any substantial group of Negro citizens operated segregated schools and none of them understood or intended in the adoption of the 14th amendment to withdraw from themselves the power to determine whether or not they would operate such schools, nor did they intend to repose such power in the Federal Government.

Countless State and Federal decisions have confirmed that intention of the adopters and framers of our 14th amendment. The Supreme Court itself, first in the case of *Plessy v. Ferguson* and then in the case of *Gum Long* against *Rice* decided by unanimous Court, in 1927, that the 14th amendment did not prohibit to the States the power to maintain and operate schools separate upon the basis of

race. Upon the faith of this understanding of the Constitution of the United States, upon the faith of these solemn judicial determinations, the southern section of this country, most vitally concerned in the matter, proceeded at great sacrifice and at great cost, in destitution, if you please, to provide a system of public education upon the basis that they had the right to separate the races so long as the facilities were equal. That was the status of the matter, and I might add that in the case of Sweatt against Painter the very Court that rendered the 1954 decision within a few months prior thereto had recognized the validity of the "separate but equal" doctrine, and on May 17, 1954—

The CHAIRMAN. I didn't get the last sentence.

Mr. GRAVATT. I said the very Court decided the May 17, 1954, case—I think it was probably Chief Justice Vinson, who has passed away—decided the case of Sweatt against Painter and in that case it recognized the validity of the doctrine of separate and equal facilities and the right of the States to separate the races in their public schools.

Now, sir, I speak to you not of my personal views, though they are my personal views; I speak to you of the views of the people of Virginia. I call this to your attention because it is a matter which is of vital consideration in connection with the bills which you now have before you.

On May 17, 1954, the Supreme Court of the United States said that the 14th amendment no longer means what it has meant all these years. They turned their backs—

The CHAIRMAN. Would you care to be interrupted?

Mr. GRAVATT. I do not object, sir.

The CHAIRMAN. Weren't there a number of cases prior to the so-called Brown decision which seemed to foretell the Brown decision?

The Brown case itself, on 491 says this—this is page 491: "In this Court there have been six cases involving 'separate but equal' doctrine in the field of public education," and then it cites the cases of *Cummings v. County Board of Education*, 175 U.S. 528 and *Gum Long v. Rice*, 275 U.S. 78. "The validity of the doctrine itself was not challenged. In more recent cases, all on the graduate school level, inequality was found in that specific benefits enjoyed by white schools were denied to Negro students of the same educational qualifications. *Missouri ex rel v. Gainada*, 305 U.S. 337, *Sippuel v. Oklahoma*, 332 U.S. 631, *Sweatt v. Painter*, 331"—

Mr. GRAVATT. That is the case I referred to, Sweatt against Painter.

The CHAIRMAN. But that didn't uphold the doctrine of "separate but equal."

Mr. GRAVATT. Every one of them upheld the doctrine. Not a one of them overthrew the doctrine of "separate but equal" until the case of Brown against the Board of Supervisors or the Topeka case.

The CHAIRMAN. Then the Supreme Court itself puts, apparently, an improper interpretation on the previous cases decided by it.

Mr. GRAVATT. Didn't I understand you to say in those cases they said the doctrine was not challenged?

The CHAIRMAN. That was the other case. That was in the Cummings against County Board and the Gum Long case against Rice, but these other cases that I have mentioned, they were challenged on the higher educational level, in colleges and law schools, where it was

held that the "separate but equal" doctrine was illegal and they struck down that principle.

Mr. GRAVATT. They held in the Texas case that the Texas Law School provided for the Negro was not equal to the University of Texas Law School because the lawyer would be denied association with those who would be members of his profession in the future years, because it did not have the alumni that the University of Texas had and for reasons of that kind it was unequal, but they did not overthrow in any of those cases, so far as I have understood them, the doctrine of the power of the State to operate separate schools so long as they were equal.

The CHAIRMAN. Well, in the *Sweatt v. Painter*, the very last sentence of the decision is as follows: "We hold that the equal protection clause in the 14th amendment requires that petitioner be admitted to the University of Texas Law School. The judgment is reversed," and so forth.

Mr. GRAVATT. Yes, sir. That is correct. But they didn't predicate the decision—

The CHAIRMAN. They didn't what?

Mr. GRAVATT. They did not predicate that decision upon the basis of overthrow of the doctrine of "separate but equal"; they said that the law school provided for the Negro was not equal to the law school provided for the whites for the reasons I have mentioned to you.

The CHAIRMAN. What about the statement which says that the equal protection clause in the 14th amendment requires the petitioner to be admitted?

Mr. GRAVATT. The equal protection clause has always been construed that you are required to give equal facilities and they held in that case that the facilities were not equal because of the things that I just mentioned, the association of the law student with his future compatriots at the bar and the alumni and some matters, I think, in connection with the library facilities.

I do not, sir, wish to get involved in a discussion of that kind because we can certainly disagree and I recognize that there are others who think differently from the way that I think about it.

What I am trying to tell you, sir, is that the people of Virginia, the people of the South, are deeply convinced that this construction of the Constitution of the United States constitutes a seizure of power on the part of that Court to change and alter the meaning of the Constitution upon the basis of the opinion of sociologists or other experts.

The CHAIRMAN. Do you think that the interpretation placed by the Supreme Court on the principle "separate but equal" in the *Plessy* against *Ferguson* case in 1896 was proper?

Mr. GRAVATT. Yes, sir.

The CHAIRMAN. Then you accept the theory that the Supreme Court has the right to interpret the law?

Mr. GRAVATT. I accept the theory that the Supreme Court has the right to interpret the law; I accept the Supreme Court of the United States as the final arbiter of the Constitution of the United States. I would not advocate defiance of the Supreme Court; I would not advocate anything other than legal means.

Do you understand me, sir?

I disagree with them. I reserve the right to myself as a citizen and as a lawyer to disagree with them. I think that they have done

a thing and that the doctrine that they have adopted in that case, aside from the question of segregation and integration entirely—leave it aside—is a most dangerous doctrine for the liberties of every American of every State.

I think, if you will let me finish, sir, the Supreme Court of the United States in that decision predicated its change of the Constitution and its solemnly declared interpretation of the Constitution not upon the basis of precedent, not upon the basis of logic, not upon the basis of any intention or purpose of the framers or adopters of the Constitution, not upon the basis of anything that is found within the Constitution; they predicated that decision upon the basis of the opinions of men and if they can accept the opinions of men as the basis for the change of the meaning of the fundamental doctrine that protects the liberties of all Americans, then your liberties, my liberties as protected by the Constitution are in danger of being destroyed depending upon the opinion of whatever man the Court may wish to accept at some future time.

The CHAIRMAN. The opinion in the Brown case was unanimous, was it not?

Mr. GRAVATT. Yes, sir.

The CHAIRMAN. You therefore accept the opinion of the Court composed of nine justices in Plessy against Ferguson, decided in 1896, in connection with the doctrine of "separate but equal," but you feel that you cannot accept the interpretation of that same principle—

Mr. GRAVATT. I have not said I would not accept it, sir.

The CHAIRMAN. You disagree with the—

Mr. GRAVATT. I disagree with it completely and I think it bears within itself the seed of the destruction of our constitutional system.

The CHAIRMAN. May I finish? You disagree with the interpretation of the same Court which in 1954 said that the "separate but equal" doctrine was not legal?

Mr. GRAVATT. I disagree with it entirely, sir, and I disagree with it because I do not think that the Constitution of the United States should ever be left to men or that an interpretation of it should ever be made to depend upon the opinion of any man.

The CHAIRMAN. How can we do otherwise, except to leave it to the integrity of the men who occupy these high positions on the courts and rely upon their opinions? They are the opinions of men, are they not?

Mr. GRAVATT. Sir, the Constitution of the United States—as I pointed out a moment ago, its fundamental theme is the delineation of power, the division of power. I do not think that the Supreme Court of the United States can accept the opinions of men to change the division of powers and, in this case, to withdraw from the States the power to operate separate schools upon the basis of race, upon the opinions of men.

If it must be changed, if it is to be changed, if that power is to be withdrawn, the Constitution itself provides for how it should be done. The 14th amendment provides for how that amendment should be enforced.

If the Constitution, if the 14th amendment is to be changed, the proper, and the only proper, way to change it is by amendment to the Constitution of the United States, as the Constitution provides, and

not by going out and accepting and taking the opinions of sociologists and dignifying them as the basis upon which to change an entire doctrine of the Constitution upon the faith of which one-fourth of the United States has maintained and developed its educational systems.

The CHAIRMAN. I think that is a very statesmanlike utterance.

Mr. GRAVATT. Sir?

The CHAIRMAN. Nobody could quarrel with that: that if you disagree we have to run along the legal lines, the legal channels in offering a constitutional amendment.

Mr. GRAVATT. Right, sir.

The CHAIRMAN. Now, has that enunciation been consistent with what has been happening in the South with repudiation and massive resistance?

Mr. GRAVATT. I am not prepared to discuss what has happened anywhere but in Virginia, but it is totally consistent with everything that has happened in Virginia up to the present time, sir.

The CHAIRMAN. Counsel wishes to ask a question.

Mr. FOLEY. Judge, where did the doctrine "separate but equal" originate?

Mr. GRAVATT. It originated in Massachusetts prior to the adoption of the 14th amendment.

Mr. FOLEY. As a constitutional doctrine, where did it originate? In what case?

Mr. GRAVATT. It originated, as far as I know, in Plessy against Ferguson.

Mr. FOLEY. Which was a transportation case?

Mr. GRAVATT. Yes.

Mr. FOLEY. Which was an interpretation by the Supreme Court of the United States of the 14th amendment?

Mr. GRAVATT. Yes.

Mr. FOLEY. Was that an interference with States rights?

Mr. GRAVATT. No, sir, because it was in accord with the clearly determined intention of the framers and adopters of the Constitution who adopted the 14th amendment, for at that time those types of separations were in existence all over this country.

Mr. FOLEY. Was it not a fact, Judge, that in 1954, when they reargued the Brown decision, the Court specifically asked counsel to argue the intent underlying the 14th amendment as to whether or not it included schools?

Mr. GRAVATT. That is correct.

Mr. FOLEY. And what was the decision of the Court in 1954?

Mr. GRAVATT. What was the decision?

Mr. FOLEY. As to that specific question.

Mr. GRAVATT. The Court said that the history was inconclusive, and may I move on to another proposition? If it was inconclusive, the burden of proof and the burden of carrying it was upon the people who wanted to change it and if it was inconclusive, then the Court should have said we let it stand as it is, as the courts have heretofore interpreted, and not taken upon itself the arbitrary authority to go outside of the history of the Constitution and to give it a meaning that was never intended to be given upon the basis of the opinions of sociologists and psychiatrists.

I disagree with the theory that the history was inconclusive and there are people much more learned than I am who also disagree with that point of view.

The CHAIRMAN. You agree, do you not, that the question of the operation of schools is within the so-called reserve powers of the States?

Mr. GRAVATT. I absolutely do and I don't think that the Federal Government has one thing to do with it, sir.

The CHAIRMAN. Do you not think, however, that the 14th amendment limited those reserve powers when the 14th amendment speaks of equal protection of the laws?

Mr. GRAVATT. I think the 14th amendment applies to the States and I think its terms say that no State shall deny to any citizen equal protection of the law.

The CHAIRMAN. Doesn't the equal protection of the laws then go to these reserve powers that are exercised?

Mr. GRAVATT. It goes to any State function. It goes to any State function, to anything that the State does.

The CHAIRMAN. Therefore, the 14th amendment, according to the interpretation by the Supreme Court, was to the effect that in the operation of schools along the "separate but equal" doctrine, was a violation of the 14th amendment?

Mr. GRAVATT. I have given my reply to that, sir; that it is clearly established that it was never intended that the 14th Amendment should reach into the schools of this country and I think that is established by the fact that the very Congress that proposed it maintained and appropriated money to operate separate schools in the District of Columbia. Nobody denies that, and practically all of the States—certainly a vast majority of them that ratified the amendment—at the time were operating separate schools on the basis of race and continued to do so for many years and all of the States in the Union up until 1954 that abandoned it—your State and all of the others—abandoned it by their own authority and by their own action and not upon the basis that it was a violation of the 14th Amendment or on the basis of the invasion of their reserved powers by the Federal Government. Now that is a fact, and what I am undertaking to say to you, sir, and I didn't set out to argue this matter—I know that men have legitimate reasons for differing with me and I respect other people's opinions, but, sir, I would tell you that the people of Virginia and I tell you the people of the South feel deeply and passionately that this is a violation of the Constitution of the United States; that this establishes a doctrine that if it is accepted by the people of America has laid the ground work and opened the door for nine justices of the Supreme Court to break the constitutional claims which were forged to tie down tyranny and to alter the Constitution upon the basis of whatever opinion of whatever men they may choose to accept. I respectfully submit to you that this is a most dangerous doctrine; one which can be used to destroy the protective measures of the Constitution of the United States.

The CHAIRMAN. If those judges have gone that far and are guilty of what you indicate, why has nobody offered to impeach these judges?

Mr. GRAVATT. I do not know, sir. I am not suggesting to you that they have acted dishonestly or that they have acted without sincerity

or that they have acted in a fashion that would justify their impeachment. I am saying to you that this is a dangerous extension of the power of the Federal court to interpret the Constitution of the United States.

Now let me move just one step further, sir, and I am not trying to argue this matter and certainly I do not wish to reflect upon the Supreme Court of the United States. When I have been there, and I have been there in recent weeks, they have been just as courteous and considerate of me as they could be, and I respect the gentlemen there individually, but I reserve the right to disagree with them, certainly, upon an issue that I think is of such tremendous and vital importance to the eternal liberties of the people of this country.

Now, sir, let me move on.

The CHAIRMAN. Let me ask this: What are we supposed to do as Members of Congress, and particularly as members of the Judiciary Committee? Here is a judgment of the Supreme Court. Are we to disregard that judgment or are we to pattern our legislation along the lines of that Supreme Court decision? What are we supposed to do?

Mr. GRAVATT. Sir, I am not the arbiter of any man's conscience.

The CHAIRMAN. I am asking you for some advice.

Mr. GRAVATT. Yes, sir. I will give you my advice if you permit me to finish.

The CHAIRMAN. What are we supposed to do? That is what I would ask.

Mr. GRAVATT. I will try to get to that before I finish. Will you allow me just to reach that? Maybe when I get a little further along we will reach that, because that is a conclusion I want to reach.

These suggestions that I have made to you about the Supreme Court of the United States are not, sir, just the views of a prejudiced, bigoted Southerner; these views have been expressed by many people much more eminent in the field of constitutional law than I am. I refer to Mr. Alfred Schweppe, a former dean of the Law School of the University of Washington, now a member of the editorial staff of the American Bar Association, who has written a number of articles in the U.S. News & World Report, following and pointing out in detail the argument that I have made to you about this matter.

I call to your attention the article written by Hon. James F. Byrnes, a former justice of the Supreme Court of the United States and former Secretary of State.

I refer you to a book written by Mr. Charles F. Bloch, a Jewish lawyer, called "State's Rights and the Law of the Land."

The CHAIRMAN. He appeared before our committee.

Mr. GRAVATT. Wonderful. He is, I think, an eminent gentleman.

I refer you to Mr. Hamilton A. Long and his publication called "Usurpers—Enemies of Free Men," a member of the New York State Bar.

I refer you to the lectures of Judge Learned Hand before the Harvard Law School, published by the Harvard Press under the title "The Bill of Rights."

I refer you to Resolutions and Criticisms to the American Bar Association and the Association of Chief Justices of the State Supreme Courts.

I refer you to an article in this week's issue, the April 27 issue of U.S. News & World Report, written by the former associate chief

counsel for the National Association for the Advancement of Colored People, Prof. Herbert Wechsler, who is now professor of constitutional law at Columbia University, which I daresay cannot be tainted with any southern prejudice. His article is in this week's issue.

The CHAIRMAN. I read that, sir, last night, but he believes in integration and he felt that—

Mr. GRAVATT. Oh, oh, whether we believe in integration, and that is the argument I make to you sir, whether you believe in integration or don't believe in integration, if you believe in constitutional government and in the interpretation of the Constitution according to the law and not according to the opinions of men, then you have grasped the issue that lives in the hearts of the people of Virginia, which is a part of the tradition and heritage of that State and which they believe is a part of their destiny and their mission in America, to preserve the fundamental freedoms of this country. That is a belief which exists among the people of Virginia and that I suggest to you, this committee and this Congress should take into consideration when you start enacting measures undertaking by force to fasten this decision upon them.

The CHAIRMAN. I want to say that that article you refer to was to the effect that this Supreme Court came to the right decision for the wrong reasons is all.

Mr. GRAVATT. That is not my understanding of the article. It is apparent that lawyers and all of us can disagree very easily. I thought his argument was quite pointed in his criticism of the Court and he said that the error, if the Court was going to predicate it on anything, they ought to predicate it upon the right of association and not upon the opinions of men, and when he got to the matter of the right of association, he then was confronted with the proposition of the right not to associate and he said that if there is a right to associate, there is also a corollary of it, a right of people not to associate who don't want to associate.

The CHAIRMAN. In view of our colloquy, I am going to have his statement placed in the record.

Mr. GRAVATT. I hope you will, sir, and I would be delighted and I wish you would have these others I have referred to placed in there also.

The CHAIRMAN. Very well.

(The documents read as follows:)

[U.S. News & World Report]

A NEW LINE IN THE SEGREGATION CONTROVERSY—COLUMBIA LAW PROFESSOR, WHO FAVORS INTEGRATION, SAYS SUPREME COURT DECISION IS BASED ON QUESTIONABLE GROUNDS

(By Herbert Wechsler, Professor of Constitutional Law, Columbia University)

Herbert Wechsler, of Columbia University Law School, who holds the professorship in constitutional law named in memory of the late Supreme Court Justice Harlan Fiske Stone, delivered the annual Oliver Wendell Holmes Lecture at Harvard University Law School on April 7, 1959.

Here are some excerpts from that address.

I start by noting two important fields of present interest in which the Supreme Court has been decreeing value choices in a way that makes it quite impossible

to speak of principled determinations or the statement and evaluation of judicial reasons, since the Court has not disclosed the grounds on which its judgments rest.

The first of these involves the sequel to the *Burstyn* case (*Burstyn v. Wilson*, 343 U.S. 495) in which, as you recall, the Court decided that the motion picture is a medium of expression included in the "speech" and "press" to which the safeguards of the first amendment, made applicable to the States by the fourteenth, apply.

The judgment rested, and quite properly, upon the vice inherent in suppression based upon a finding that the film involved was "sacrilegious"—with the breadth and vagueness that that term had been accorded by New York. Whether a "State may censor motion pictures under a clearly drawn statute designed and applied to prevent the showing of obscene films" was said to "be a very different question" not decided by the Court. In five succeeding cases State decisions sustaining censorship of different films under standards variously framed have been reversed, but only by per curiam decision (by the Court as a whole, but without opinions from the individual justices).

The second group of cases to which I shall call attention involves what may be called the progeny of the school-segregation ruling of 1954. Here, again, the Court has written on the merits of the constitutional issue posed by State segregation only once (*Brown v. Board of Education*, 347 U.S. 483, cf. *Bolling v. Sharpe*, 347 U.S. 497). Its subsequent opinions on the form of the decree (349 U.S. 294) and the defiance in Arkansas (*Cooper v. Aaron*, 358 U.S. 1) deal, of course, with other matters. The original opinion, you recall, was firmly focused on State segregation in the public schools, its reasoning accorded import to the nature of the educational process, and its conclusion was that separate educational facilities are "inherently unequal."

What shall we think, then, of the Court's extension of the ruling to other public facilities, such as public transportation, parks, golf courses, bathhouses and beaches which no one is obliged to use—all by per curiam decisions? That these situations present a weaker case against State segregation is not, of course, what I am saying, I am saying that the question whether it is stronger, weaker or of equal weight appears to me to call for principled decision. I do not know and I submit you cannot know whether the per curiam affirmance in the *Dawson* case—public bathhouses and beaches—embraced the broad opinion of the circuit court that all State-enforced racial segregation is invalid or approved only its immediate result and, if the latter, on what ground.

Is this "process of law," to borrow the words Professor Brown has used so pointedly in writing of such unexplained decisions upon matters far more technical—the process that alone affords the Court its title and its duty to adjudicate a claim that State action is repugnant to the Constitution?

The problem for me, I hardly need to say, is not that the Court departed from its earlier decisions that implied or held that the equality of educational facilities demanded by the Constitution could be met by separate schools. I stand with the long tradition of the Court that previous decisions always must be subject to reexamination when a case against their reasoning is made.

Nor is it that the Court disturbed the settled patterns of a portion of the country; even that must be accepted as a lesser evil than nullification of the Constitution.

Nor is it that history does not confirm it as an agreed purpose of the 14th amendment to forbid separate schools or that there is important evidence that many thought the contrary; the words are general and leave room for expanding content as time passes and conditions change.

Nor is it that the Court may have miscalculated the extent to which its judgment would be honored or accepted; it is not a prophet of the strength of our national commitment to respect the judgments of the courts.

Nor is it even that the Court did not remit the issue to the Congress, acting under the enforcement clause of the amendment. That was a possible solution, to be sure, but certainly Professor Freund is right that it would merely have evaded the claims made.

The problem inheres strictly in the reasoning of the opinion, an opinion which is often read with less fidelity by those who praise it than by those by whom it is condemned. The Court did not declare, as many wish it had, that the 14th amendment forbids all racial lines in legislation, though subsequent per curiam decisions may, as I have said, now go that far.

Rather, as Judge Hand observed, the separate-but-equal formula was not overruled "in form" but was held to have "no place" in public education on the

ground that segregated schools are "inherently unequal," with deleterious effects upon the colored children in implying their inferiority, effects which retard their educational and mental development. So, indeed, the district court had found as a fact in the Kansas case, a finding which the Supreme Court embraced, vouching some further "modern authority" to warranty.

Does the validity of the decision turn then on the sufficiency of evidence or of judicial notice to sustain a finding that the separation harms the Negro children who may be involved?

There were, indeed, some witnesses who expressed that opinion in the Kansas case, as there were also witnesses in the Virginia case, including Professor Garrett of Columbia, whose view was to the contrary.

Much depended on the question that the witness had in mind, which rarely was explicit. Was he comparing the position of the Negro child in a segregated school with his position in an integrated school, where he was happily accepted and regarded by the whites; or was he comparing his position under separation with that under integration, where the whites were hostile to his presence and found ways to make their feelings known?

And if the harm that segregation worked was relevant, what of the benefits that it entailed: sense of security, the absence of hostility? Were they irrelevant? Moreover, was the finding in Topeka applicable without more to Clarendon County, S.C., with 2,799 colored students and only 295 whites? Suppose that more Negroes in a community preferred separation than opposed it? Would that be relevant to whether they were hurt or aided by segregation as opposed to integration? Their fates would be governed by the change of system quite as fully as that of the students who complained.

I find it hard to think the judgment really turned upon the facts. Rather, it seems to me, it must have rested in the view that racial segregation is, in principle, a denial of equality to the minority against whom it is directed, that is, the group that is not dominant politically and, therefore, does not make the choice involved.

But this position also presents problems. For one thing, it involves an inquiry into the motive of the legislature, which is generally foreclosed to the courts. For another, is it defensible in general to make the measure of validity of legislation the way it is interpreted by those who are affected? Is there not a point in *Plessy v. Ferguson* (1896) in the statement that if "enforced separation stamps the colored race with a badge of inferiority," it is solely because its members choose "to put that construction upon it"? Does enforced separation of the sexes discriminate against the female if it is imposed by judgments predominantly male? Is a prohibition of miscegenation a discrimination against the colored member of the couple who would like to marry?

For me, the question posed by State-enforced segregation is not one of discrimination at all. Its human and its constitutional dimension lies entirely elsewhere, in the denial by the State of freedom to associate, a denial that impinges equally on any groups or races that may be involved.

I think, and I hope not without foundation, that the Southern white pays far more heavily for segregation than the Negro, not only in the sense of guilt that he must carry but also in the benefits he is denied.

In the days when I was joined with Charles Houston (late chief counsel of the National Association for the Advancement of Colored People) in a litigation in the Supreme Court, before the present building was constructed, he did not suffer more than I in knowing that we had to go to Union Station to lunch together during the recess.

Does not the problem of miscegenation show most clearly that it is the freedom of association that at bottom is involved—the only case, I may add, where it is implicit in the situation that association is desired by the only individuals involved? I take no pride in knowing that in 1956 the Supreme Court dismissed an appeal in a case in which Virginia nullified a marriage on this ground, a case in which the statute had been squarely challenged by the defendant and the Court dismissed per curiam on grounds that I make bold to say are wholly without basis in the law. See *Naim v. Naim*, 197 Va. 80, 350 U.S. 891, 197 Va. 734, 350 U.S. 985. But if the freedom of association is denied by segregation, integration forces an association upon those for whom it is unpleasant or repugnant. Is this not the heart of the issue involved, a conflict in human claims of high dimension not unlike many others that involve the highest freedoms that Professor Sutherland has recently described? See "The Law and One Man Among Many" (1956) 35 et seq.

Given a situation where the State must practically choose between denying the association to those individuals who wish it or imposing it on those who would avoid it, is there a basis in neutral principle for holding that the Constitution demands that the claims of association should prevail? I should like to think there is, but I confess that I have not yet written the opinion. To write it is for me the challenge of the segregation cases.

Having said what I have said, I certainly should add that I offer no comfort to anyone who claims legitimacy in defiance of the courts. This is the ultimate negation of all neutral principles: to take the benefits accorded by the constitutional system, including the national market and common defense, while denying it allegiance when a special burden is imposed. That certainly is the antithesis of law.

MR. GRAVATT. Now, if Your Honor please, the second fact that I wish to call to your attention is that the people of Virginia have lived honorably and in peace with separate schools for over 300 years.

This thing started in Virginia in 1619 and has been there ever since and there is no doubt that with the two cases in an area the size of Virginia, when two groups of people with the differences that exist between the white and the Negro have to live together that there is a great problem. I have lived in it. I came to the community that I live in to practice law—not to get rich, but I came there to practice law, to serve the poor people and to serve the Negro people and I am the county judge of all of the people of that county—white and colored—and my father and I, through the years, have represented, I suspect, more Negro clients than any lawyers in southside Virginia and I am a friend of the colored people and all of the people of Virginia share the feeling of friendship and devotion and of affection for their colored people and we have lived in peace and in harmony with them. But they are determined—they are determined, for reasons that reach deeply into their natures, that they will not permit their children to be brought into the close, continuous, intimate, social association that is required from school age until graduation with a multitude of colored people, as they are in the communities in which we live.

I have been, if you please, attorney for the Board of Supervisors of Prince Edward County, in association with the Commonwealth's attorney of that county long before the decision of May 1954, and in 1956, when the decision of the Supreme Court of the United States came down, the people of Prince Edward County prepared a little thing that they called an affirmation and it said that we call upon the board of supervisors of this county to abandon public schools and that we would prefer to provide for the education of our children in some other way, if that be necessary, to avoid mixing them in the schools.

And on May 3, 1956, that affirmation was signed, sir, by 98.5 percent of all of the adult white people in Prince Edward County. It lies in the clerk's office of that county with the signatures attached at this moment for anybody to see who wants to go there and look at it.

On May 3, 1956, when that petition, that affirmation, was presented to a mass meeting of the people of Prince Edward, they adopted this resolution and I recite it to you to tell you of how the people of Virginia feel, and I think that is a fact which you should consider in your deliberations with respect to these measures. Listen:

The power of the Federal courts being once again invoked against the administrative offices of our public schools for the purpose of causing children of the white and Negro races to be taught together therein, we the people of Prince Edward County deem it appropriate that we should make known to all men our convictions and our purposes.

We first affirm our deep and abiding loyalty and devotion to our country and its institutions. We acknowledge the Constitution of the United States to be the supreme law of the land and the bulwark of our liberties, ever subject to the sovereign powers reserved by it to the States and to the people. We know that the liberties of all Americans and of all races rest upon the Constitution and the division of powers ordained therein.

We deem it to be the obligation of free men to preserve the powers reserved under the Constitution to the States and to the people and to preserve the constitutional separation of the powers of the Government in the legislative, executive and judicial branches separately.

We believe that the educational, social, and cultural welfare and growth of both the white and Negro races is best served by the separation of races in the public schools. We believe the tranquility, harmony, progress, and advancement of the Negro and the white races, who must live together in Virginia and in Prince Edward County, is absolutely dependent upon the mutual good will and mutual respect of each race for the other.

We believe that a policy which undertakes to force the association of one race with the other against the will of either by court decree under threat of fine or imprisonment, is destructive of mutual good will and respect, breeds resentment and animosities and is injurious to the true interests of both races.

We believe that the molding of the minds and the character of our children is the sacred duty and the priceless natural right and obligation of parents.

Freedom of decision with respect to these considerations, touching as they do the most intimate relations of the people of our community and the most cherished natural rights and duties of parenthood, is absolutely essential to the maintenance, operation, management, and control of our public schools. We conceive this freedom to be among the sacred rights "retained by the people" under the ninth amendment of the Constitution.

Among the reserved rights and powers of the States guaranteed to the State of Virginia under the 10th amendment is the power to maintain racially separate public schools. We do not perceive that the exercise of this power has ever been prohibited to the States by any provision of the Federal Constitution. We believe that this power can be prohibited to the States only by the States themselves. To concede the right of a Federal court to withdraw this power from the individual States is to concede that all rights and powers of the States and of the people are enjoyed at the sufferance of the Federal judiciary and the guarantees of the liberties of the people are no longer fixed in the Constitution itself.

We do not intend to speak disrespectfully. The gravity of the issues require that we speak plainly. By the decision of May 17, 1954, and subsequent decisions the Supreme Court of the United States has flagrantly exceeded its lawful and intended authority, trespassed upon the rights of the people, and dangerously encroached upon the reserved rights of the States.

Holding these convictions, it is not possible for us to submit the children of Prince Edward County to conditions which we most deeply and conscientiously believe to be pernicious. Nor can we, the heirs of liberty purchased at such great sacrifice by those who have gone before, submit to this judicial breaking of the constitutional chains forged to restrain tyranny for all generations of Americans. We therefore pledge ourselves firmly to use every honorable, legal, and constitutional means at our command to oppose this assault upon the Constitution and upon the liberties of our people.

Therefore, if the courts refuse to recognize these most fundamental, intimate, and sacred rights and the profound necessity that they be respected, then we proclaim our resort to that first American tenet of liberty, that men should not be taxed against their will and without their consent for a purpose to which they are deeply and conscientiously opposed.

We ask our board of supervisors, as our legislative representatives, to proceed at the appropriate time to enact and adopt whatever ordinances and resolutions may be required to prohibit the levying of any tax or the appropriation of any funds for the operation of racially mixed schools within Prince Edward County to the end that all public schools of the county may be closed upon the entry of a court order requiring the mixing of the races in any schools of this county.

We further call upon our school board to make known to the district court the determination of the people of Prince Edward County here expressed. The issues are too profound and the consequences to our people too grave to leave any doubt of the impossibility of our compliance or of the resolute mind of our people. Any order to mix the races in our schools can only result in the destruction of the opportunity for a public education for all children of this county.

It is with a most profound regret that we have been forced to set this course. The history of the people of Prince Edward County demonstrates their love and appreciation of the value of educational opportunity—

and I might say here that within the confines of Prince Edward County the College of Hampden-Sydney was founded by the citizens of that county prior to the Revolutionary War—

We act with no animus toward any man or body of men. We do not act in oppression of the Negro people of this county. We propose in every way that we can to preserve every proper constitutional right of all of the people of Prince Edward County. However deeply convinced as we are of the wrongness and imprudence of intimate racial integration, we cannot and will not place merely supposed rights, newly created by judicial mandate above the conscience of our people and above the rights and powers which for generations have been exercised honorably and constitutionally by the people of our county.

It is our earnest hope that other counties in the Commonwealth of Virginia will repudiate the spurious * * * allurements of expediency and stratagem in order that Virginia may stand as she has always stood, dedicated to the protection of the rights of a free people against tyranny from any quarter. If we fail in this solemn obligation now, all our rights will be extinguished one by one.

I read that to you gentlemen because in my most humble and respectful opinion it represents the convictions, the sense of obligation and duty, it represents the high principle upon which the people of Virginia throughout its length and breadth feel, sense, and intend to act. There can be, if you please, gentlemen, there can be no basis upon which human beings can get along with each other that is forced upon them. I have been a judge, as I mentioned a moment ago, and you will pardon this personal reference, of a county court which also has the responsibility for domestic relation matters and juvenile delinquency. I know that when a man and a woman come to the parting of the way, when they have lost confidence in each other, when they have lost faith in each other, when they have lost respect for each other, when they have lost their affection for each other, there is no power reposed in the hands of any court, nor in the enactment of any law, to bring them together and make whole that which has been destroyed. I most respectfully submit to you that in matters of relations of people, racial groups and all, it is a spiritual matter, it depends—and every man within the sound of my voice knows this to be the truth—not only in Virginia but everywhere—for men to get along together they must live in mutual respect and affection for each other. Those things are attained not by the enactment of law; they are attained by the way you live, and there are a multitude of examples among the colored people of Virginia, in my community and others, who by the impeccable way of their life, by their industry, by their honesty, by their friendliness, by their fair dealing, they have created and developed in the hearts of men of all races respect and affection.

What has happened with this decision, gentlemen, has been to drain off a great part of that reservoir of good will and of affection which has been built up through all of these generations in Virginia. If you proceed to enact Federal legislation that will send into Virginia

representatives and agents of the Federal Government to undertake to induce the people of Virginia to do that to which they are violently opposed, if you undertake to repose in the Attorney General of the United States the power to proceed against the people of Virginia in the fashion that is proposed in these bills—civilly and criminally and by injunctive relief—what you will accomplish is not the integration of the races in Virginia; you will accomplish what has happened in Warren County, Va., where 21 colored children sit in a school built for 1,200 children and the 1,200 white children are attending such private schools as they are able to manage and that county has only 21 Negroes in its schools.

In the county in which I live, there are approximately 4,000 white children in all of the schools and approximately 4,200 or 4,300 Negroes. In Prince Edward County the proportion is even more Negro. What you will accomplish is that the white schools of Virginia will be closed; the white children of Virginia will go to other schools.

The people of Virginia, like the people of America everywhere, are resourceful enough to find a way to rear their children in accordance with the precepts that they hold deeply in their own hearts.

The CHAIRMAN. Mr. Gravatt, Virginia has made considerable strides and is endeavoring to—

Mr. GRAVATT. I'm glad you think so, sir.

The CHAIRMAN. Endeavoring to wrestle with this job.

Mr. GRAVATT. Sure they are.

The CHAIRMAN. I certainly don't want to condemn Virginia at all because I am very much interested in the work of the Perrow Commission and I would like if you would take the time to get into this record some of the very fine work that that commission has done.

Mr. GRAVATT. I don't think it is fine, sir, so you better not ask me to discuss it.

The CHAIRMAN. I beg your pardon.

Mr. GRAVATT. I don't think it is fine and you better not ask me to discuss it. I want to be frank. I think it is a compromise with the constitutional issue that is involved, which I think is of tremendous significance and importance.

The CHAIRMAN. What do you think Virginia should do?

Mr. GRAVATT. Well, we have done one thing.

The CHAIRMAN. Is the Governor, as I understand it, who is espousing the recommendations, if I read the published—

Mr. GRAVATT. Have you read the Governor's speeches? If you can find out what the Governor is espousing, you are better than I am.

The CHAIRMAN. You don't let me finish. He is espousing, as I understand, the recommendations of the Perrow Commission, which is at least a start, and probably if we can work along those lines we can establish good relations and develop something that is worthwhile.

Mr. GRAVATT. I hope the newspaper gentlemen will send that remark down to the General Assembly which is now in session in Virginia. I think that might have some influence on them.

The CHAIRMAN. Go ahead.

Mr. GRAVATT. They are not advertising that as being that, if you please, Mr. Chairman. They are not advertising it as being a way of wrestling with this problem and complying with the Court decision; they are advertising it a little bit differently.

The CHAIRMAN. Do you believe that the public schools of Virginia should be closed?

Mr. GRAVATT. I believe that whatever is the will of the people of Virginia should be done.

The CHAIRMAN. Regardless of the Constitution?

Mr. GRAVATT. I believe that whatever is the will of the people of Virginia should be done.

Let me answer that. We have enacted in Virginia an arrangement whereby the county and the State both can make tuition grants independently and totally free to everybody who wants an education—Negro, white, everybody.

The CHAIRMAN. Are these so-called scholarship tuition grants to colored as well as white?

Mr. GRAVATT. Yes, sir, and we are very glad to give them to them and we expect to try to help them organize schools if any of them are closed. I personally do.

The CHAIRMAN. That is, the scholarships will be to schools that are segregated?

Mr. GRAVATT. No, sir, not necessarily. Schools that are private schools are under the control of private operation and it will depend entirely upon what the people that operate the school wants to do about that.

The CHAIRMAN. Then you don't agree wholly with the Perrow Commission? They provide or that Commission suggests local option, pupil placement, pupil-placement plan where the moneys or scholarships will be accorded to private schools, as you say, operated on a nonsegregated basis. Is that correct?

Mr. GRAVATT. No, sir, I didn't say that. I said it would be private schools operated in accordance with whatever regulations the private group would fix for operation of them.

The CHAIRMAN. But it would be left to the local community?

Mr. GRAVATT. It would be left to whoever operates the private school.

The CHAIRMAN. What is that last?

Mr. GRAVATT. To whoever operates the private school.

The CHAIRMAN. That would be the local community?

Mr. GRAVATT. Oh, I don't think so. I think it would be the directors of a corporation, probably.

The CHAIRMAN. Who would operate these schools?

Mr. GRAVATT. A nonprofit corporation organized all over the State.

The CHAIRMAN. But the moneys would be drawn from the State treasury?

Mr. GRAVATT. No, sir. No, sir.

The CHAIRMAN. Where would the moneys come from?

Mr. GRAVATT. It would come from the parents of whatever children matriculate in the schools.

The CHAIRMAN. Where would the Negro get their placement funds from?

Mr. GRAVATT. From the same place as the white children do. The money is paid to parents under certain regulations, who apply for it for the education of their children.

The CHAIRMAN. But the tax money would go to the parents, is that it?

Mr. GRAVATT. It is tuition grant money.

The CHAIRMAN. But it would come from the State treasury?

Mr. GRAVATT. Yes, sir; I think so, or the county treasurer.

The CHAIRMAN. So that these scholarships, the cost of the scholarships would be defrayed by the State funds?

Mr. GRAVATT. To that extent, yes, sir.

The CHAIRMAN. All right.

Mr. GRAVATT. So that what I am saying to you, if you please, sir, in Virginia the resistance in Virginia is mild in comparison to what is going to be experienced when you move a little further south. If you send these agencies that these bills contemplate, if you send into Virginia this kind of Federal outside influence, the people of Virginia are going to take it as oppression and the firming of the resistance will increase over that State until you will be hopelessly ensnared in the situation.

From my point of view—let me make this clear to you, sir—I want to be perfectly frank with you gentlemen—I am not given to speaking without being a little bit pointed and forthright—I am deeply interested in preserving segregation in Virginia. If I didn't have any other consideration but that, I would suggest to you that you send all of these people into Virginia—that in my opinion would be the finest thing that could happen in Virginia—and assure you of the fact that the people of Virginia would never submit to the integration of their schools. If you send a bunch of these people that they are going to get together over here in the Department of Health, Education, and Welfare, who will be agents of the NAACP and the ADA and the Civil Liberties Union and all of these people—send them into Virginia—and I am not criticizing those people; I am telling you if you send them down and let them start trying to manage Virginia schools, you will really have destroyed them.

The CHAIRMAN. To get back to this pupil placement and these scholarships you finally admit would come out and the expense of these scholarships would come out of the State treasury and it would be possible for the local communities, if they saw fit, to continue segregated schools to which pupils would go upon scholarships defrayed by the State treasury. Do you think that if a case came before the Supreme Court again on the basis of such an agreement that the Supreme Court would change its decision?

Mr. GRAVATT. I have no idea, sir. I have no idea. I have no idea. If you mean whether the Supreme Court would recognize that as being a private school and if it were segregated it would require admission of colored people to it, I have no idea. That is another step. We are on a long, long road and I don't suppose this problem if it is continued to solution, continued to be pressed by the use of force, by injunctions, by the threat of confinement in jail and fine, by the enactment of penal statutes and sending in of outside people from Washington, the Federal Government, I don't think it will ever be solved. But under any circumstances it is a tremendous problem and I don't think it will be solved in my lifetime.

If you please, sir, I am going to try to close this little statement I have made to you on a little lighter vein. I hope that this committee will have the wisdom and the understanding not to enact these measures. The word "wisdom"—I went to hear a country preacher not too long ago and he preached on gumption and he said, "Gumption

is what a hound dog has got in his nose that tells him when he looks up a tree that there ain't no coon up that tree." And I suggest to you gentlemen and I hope that this committee will have enough gumption to realize that there aren't any coons up this tree and no integration in these bills.

If this measure is followed, it is not going to accomplish the purpose that you may hope it will accomplish. It is going to have exactly the opposite effect and it is going to stir up that which is the greatest evil and the most distressing and drastic thing that could come out of it all. It is going to stir up hostilities and animosities and resentment among people that we deeply want to live with in peace and in harmony and in tranquility. So that is what I hope your committee will do, sir, that you will not enact these measures.

I think that what this thing needs, if it needs anything in the world, is no more Federal force, no more threats with injunctions and locking people up. You can't bring a proud people to their knees in that fashion when it involves their deep convictions concerning the welfare of their children whom they love with all of their hearts and all of their souls even as you love yours.

The CHAIRMAN. Well, we thank you very much, Mr. Gravatt. I want you to know that our assignment is not an easy one. It is a difficult one.

Mr. GRAVATT. Yes, sir; and I hope I have not shown any disrespect at all for your sincerity. I do have the greatest respect for you.

The CHAIRMAN. We are glad to get your point of view. There are many points of view in this problem and we are wrestling with it the best we can.

Mr. McCULLOCH. Mr. Chairman, excuse me a moment.

The CHAIRMAN. Mr. McCulloch.

Mr. McCULLOCH. I have listened with a great deal of interest to this very excellent witness, Mr. Gravatt. As I listened, however, I came to the conclusion finally that Mr. Gravatt's remarks were confined entirely to the question of integration.

We have before this committee H.R. 4457, which I introduced and which I am glad to describe as the administration bill. At least an even part, if not a major part, of that bill goes to subjects other than integration and since the presentation of the preceding witness was so able and so thorough in the field of integration, I would be glad at a later date if he would discuss either in person before this committee or in detail in writing each of the sections of H.R. 4457.

Title 1 of that bill has to do with obstruction of court orders and I would even be glad to have the suggestions of the distinguished gentleman as to how we might improve that. I don't think it goes quite far enough. It could properly reach, in my opinion, some of the abuses that have been particularly pointed up in the northern part of the United States by the great McClellan committee. I would be glad to have the witness also carefully study title 2 of that bill, which carries the title "Flight to Avoid Prosecution for Destruction of Educational or Religious Structures," in view of the Lindbergh Act and the Narcotics Act and so on.

Likewise I would like for the very able witness to thoroughly study title 3, which is entitled "Federal Election Records." Particularly I would like to have the benefit of his views on that title because it is

my studied judgment that the right of elective franchise properly protected is the cornerstone of representative government.

Title 4 is a matter of some consequence, but it doesn't go to the real heart of the problem. It merely extends the life of the Civil Rights Commission.

Title 5 is of lesser importance than those that I have already discussed.

Title 6 is more in the field which you have so ably presented to us, as is title 7.

Summing up, Mr. Chairman, I would be very happy if the gentleman would present to the committee, either in person at some other session of this committee or in writing, as he desires, a complete discussion of this bill.

At the risk of self-praise, I would like to say that I feel, and many of my good friends feel, that this is a moderate, temperate approach which we hope and which we believe will not be used as an instrument of force and might conceivably prevent the use of force in matters that would be far worse than anything that might be contemplated under even some of the other bills that are before this committee.

The CHAIRMAN. We would be very glad to have a statement like that from you, Mr. Gravatt.

Mr. GRAVATT. Thank you, sir. I appreciate your compliment, sir, in asking me to do that and I assure you I will try to do it and I wish to say, in view of that, that I have not intended, sir, at all to question anything about this committee, I know that you gentlemen have a tremendous problem and you have my sympathy and my earnest prayers for solution of it and if I can be of any help to you, I am more than happy to do so.

The CHAIRMAN. Thank you very much, sir.

Mr. COLMER. Mr. Chairman, may I say for the record and the benefit of my esteemed colleague from Virginia, I understood that Mr. Campbell was first on the list, but he deferred to the distinguished member of this committee, Governor Tuck. Mr. Campbell is a layman. I am sure he has a very brief statement. I am sure it will not take long to hear him and if he could be heard at this time, as I have another engagement—if that is agreeable to Mr. Abbitt—

Mr. ABBITT. That will be fine if I come right behind Mr. Campbell. I assume you will get to my man this morning because he came a long way.

The CHAIRMAN. We will be glad to hear from Mr. Campbell. Mr. Boyd Campbell, president, Mississippi School Supply Co., Jackson, Miss., former president of the U.S. Chamber of Commerce.

Mr. COLMER. Mr. Chairman, may I say just a word?

I am, first of all, grateful to the chairman and to my very fine friend and colleague, Mr. Abbitt. I personally wanted the opportunity to present my distinguished friend, a great American, the former president of the U.S. Chamber of Commerce.

I have known Mr. Campbell practically all of my and his life. As a matter of fact, we were schoolmates back more years than he and I would care to discuss. He comes to us not as a man learned in law, nor does he come to us as one prepared to discuss the legal intricacies involved here, but he comes to us as a citizen of Mississippi, as a representative of that great section of ours known as the Southland, but

more than that, he comes to us as an American who is interested in the perpetuation of this Republic along the lines that the Founding Fathers conceived, Mr. Chairman.

I was very much interested in the remarks of the esteemed gentleman from Virginia, the learned lawyer who presented his case here. I want to comment just briefly upon his statement to this effect: I want to underwrite, as will my friend, Mr. Campbell, I am sure, underwrite the futility, the folly of attempting the strong arm of a strong centralized government to ram, if I may use the word, this question, this proposition of integration down the throats of the American people.

During the prohibition area, that the distinguished chairman remembers so well as a member of the bar and of the judiciary and which, I am sure, the other gentlemen on the committee recall, I was a prosecuting attorney and we made an honest effort in my area to enforce the provisions of the Volstead Act. That is a matter of history. It simply could not be done and finally the Congress repealed that law and one of the chief advocates of that repeal was the distinguished chairman of this great Committee on the Judiciary.

I say that there is a parallel there.

Now I present to you a man who is interested and genuinely and sincerely interested in seeing the races go along together and seeing the progress that has been made by the colored people of this country continue, but continue in an orderly manner.

Mr. Chairman, and members of the committee, it is my privilege to present to you my friend, a distinguished American, the Honorable Boyd Campbell of Jackson, Miss.

The CHAIRMAN. We are glad to hear from you.

STATEMENT OF HON. BOYD CAMPBELL, PRESIDENT, MISSISSIPPI SCHOOL SUPPLY CO., JACKSON, MISS. (FORMER PRESIDENT OF THE U.S. CHAMBER OF COMMERCE)

Mr. CAMPBELL. Mr. Chairman and gentlemen, I want to express my appreciation to you, sir, for yielding. This statement will take about 17 minutes.

I am somewhat at a disadvantage because I have been up all night to get here.

The CHAIRMAN. Suppose you be seated. You don't have to stand.

Mr. CAMPBELL. I like to stand, if you don't mind, sir.

I am reminded of the statement of a horse thief who was caught and who was on the scaffold with the rope around his neck and he said to the sheriff: "I am not accustomed to this sort of thing, so please take it easy until I get the hang of it."

Mr. Chairman and gentlemen, my name is Boyd Campbell. I am a small businessman from Jackson, Miss. I appear before you in my individual capacity and not as the representative of any organized group. I must, therefore, ask your indulgence if I make frequent use of the first person singular pronoun.

The CHAIRMAN. Have you got a copy of your statement?

Mr. CAMPBELL. Yes, sir.

The CHAIRMAN. Can we have a copy?

Mr. CAMPBELL. Oh, yes.

Mr. Chairman, I was going to suggest if you have any difficulty with my accent, you don't hesitate to interrupt.

When I made known my intention to request the privilege of making a statement to your committee on the proposed legislation that is currently under consideration—in particular, H.R. 4457, H.R. 3147 and H.R. 619—some of my friends, with apparent genuine concern about my sanity and safety, warned me to stay away.

I was reminded that no southerners were on the committee. I was told that my statement would be met with hostility. One counsellor said I would be "clobbered." Another said I would be "drawn and quartered."

I admit that I am without experience in this role, but if there was ever any doubt about the rightness of my request for a hearing, it was resolved when I encountered so much misunderstanding about legislative processes on Capitol Hill. The misconception about the treatment of an American citizen who in a spirit of good will and sincere conviction makes a statement before a committee of the Congress that might possibly be in conflict with the equally sincere convictions of the committee members was amazing.

The CHAIRMAN. We don't look like we are going to quarter you or clobber you.

Mr. CAMPBELL. No, sir, you don't and I feel perfectly at home.

Even though we are dealing with a highly controversial subject, the discussion of which sometimes engenders more heat than light, I am constrained to believe that the goals of the sponsors of these bills are not vastly different from my own in the area of improved race relationship. The difference between us arises out of the proposed methods by which they are sought to be attained. Without meaning to be presumptuous, I am inclined to believe that there are thousands, probably millions of unorganized Americans who believe as I do.

Before proceeding further, I wish to present my credentials for the sincerity of what I will try to say.

I am the grandson of two non-slave-owning Confederate soldiers, both of whom returned from the war with wounds that crippled them for life. In their reminiscences and discussions of the war, I never heard from them one word of recrimination or bitterness. From them I learned the meaning of good will. I did not appreciate its value then. I do now. In too many of our relationships, domestic and foreign, the factor of good will appears to be eroding at a time when our national well-being requires that it should be increasing.

For all my mature life, as have thousands of my white neighbors in Mississippi, I have advocated better education, better economic opportunity, better living conditions, better health services, and equality before the law for Mississippi Negroes.

In 1950, as a member of a statewide group of educators and laymen, I was privileged to raise a sum of money from friends and associates to finance a study of Mississippi's school system in an effort to create sentiment for the enactment of an education code that would correct inequalities and inequities; that would establish uniform standards and would eliminate discrimination between the races in salaries and facilities.

With the aid and assistance of the State chamber of commerce and the support of a sympathetic State administration, Mississippi's education foundation program was enacted into law in the year 1953.

Early in the year 1954—that date is also significant—there was authorized to be spent by the State to supplement local funds a total of \$180 million for public school buildings. To date approximately \$63 million has been allocated, of which 70 percent is for schools for Negroes.

Now, gentlemen, that is for a State with the lowest per capita income in the Union.

It is my privilege to serve as a member of the board of trustees of one of our finest institutions of higher learning for Negroes. I refer to the Piney Woods Country Life School, which was founded and is still administered by Dr. Laurence C. Jones, a graduate of the University of Iowa, one of Mississippi's most distinguished and highly esteemed citizens.

On Sunday, April 5, here in Washington, an American vocalist, who has received international acclaim, gave a concert in Constitution Hall. She is Leontyne Price, a Negro soprano of Laurel, Miss., whose first public concert it was my pleasure to sponsor when the young artist was still a student at Juilliard.

Now, gentlemen, against this background I am here to express grave concern as to the effect of this proposed legislation upon the well-being of southern Negroes in particular and upon our national unity in general.

The integration decision of May 17, 1954, appears to have become the inspiration for legislation and litigation designed to take over and expedite the program which was making great progress voluntarily through the joint efforts of leaders in both races, in thousands of communities throughout the entire South.

The result has been exactly the opposite. I can express this conviction no better than to quote a telegram to the Christian Science Monitor, in which I responded to a request from its editor, Dr. Erwin Canham, for a statement on "Southern state of mind and specific American attitudes necessary to avoid violence and bring healing to a deteriorating situation."

Following is the telegram, which the Monitor carried in full on March 10, 1956:

The vast improvement in race relationship and the progress of southern Negroes in education, health, and economic opportunity was brought about by the enlightened leadership of men of good will in both races. This progress came to a jarring halt when the NAACP usurped local Negro leadership and undertook to speedily compel a condition by methods that are abhorrent to the American tradition. The problem is one that will not be solved by name-calling and weight-throwing. The deteriorating relationship between the races in the South will continue as long as outside groups attempt to force integration upon us. History does not record a single instance of compulsory integration. It will not do so in this instance. Meantime, there are heartaches aplenty on both sides as we witness the result of years of patient effort being swept away ruthlessly by methods that engender hatred rather than good will. We can only hope that those who condemn us would first try to understand us, and to understand the vastly complex problem which is ours and which lends itself to no superimposed solution. If and when methods of pressure and compulsion are abandoned, the voices of the moderates of both races will be heard and heeded.

In support of the foregoing statement, Editor Percy Greene of the Jackson Advocate, leading Negro newspaper, made the following editorial comment:

That this statement by Mr. Campbell is indisputably true can be easily seen by looking at conditions in Mississippi as well as elsewhere in the South.

Prior to the decision in the school segregation cases, using Mr. Campbell's assumption, when the NAACP took over Negro leadership, there were many easily seen signs of Negro progress toward first-class citizenship.

It had been pretty generally conceded that the Negro had been extended the right to vote along with other citizens of the State, a view that had been supported by many white editors of small but influential newspapers. There had also developed a real and honest effort to provide equal educational opportunities for Negro and white children of the State and equal pay for Negro and white teachers.

There were many other signs then evident to the intelligent and fairminded observer that time and space will not permit mentioning here.

Perhaps greater than all the factors mentioned and those that could be mentioned, was the fact that the lines of communication between the two races were wide open and the leaders of both races were getting together at local levels to discuss their problems in an intelligent and understanding manner.

Since the 1954 decision nothing which could then be pointed to affirmatively is now true as regards the progress of Negro citizens in the State toward first-class citizenship.

The telegram to the Monitor was dated March 6, 1956. If I were called upon to appraise the situation today, I could do no better than repeat it and add that Federal laws enacted subsequent to that date—for example, the civil rights bill of 1957 and the decisions of the Federal courts—have solved nothing.

They are creating a chasm of bitterness. As history repeats itself, they are setting neighbor against neighbor, friend against friend, and brother against brother. Human dignity cannot be preserved or protected by penalizing one minority to befriend another.

In a dynamic society like our own, change is inevitable, but change in attitudes, change in human relationships—the kind of change that endures because all men accept it and live with it—does not come suddenly. It is a maturing and a ripening. We of this generation should have learned that it cannot be accelerated by edict or decree. It cannot be accelerated—with deference to the honorable Members of the Congress who think otherwise—by the enactment of Federal laws.

Our memories are short. We need to remind ourselves of the 18th amendment and the Volstead Act. The great experiment failed because it undertook at one fell swoop to accomplish that which can only be attained by a change in the attitudes of citizens of a free society toward moral and social accountability. There is a parallel here.

The mores and traditions of 40 million free people cannot be changed by compulsion.

Recently we have been hearing a lot about "second-class citizenship." The words are used in at least one of the bills which you are considering. I believe, Mr. Chairman, it is the one you offered. I am not sure that I know what "second-class citizenship" means, but if it means what I think it does, it will never be abrogated by statute. First-class citizenship is a status that has to be earned. It cannot be attained by any short cuts.

Long before the Supreme Court's decision in 1954 men of good will in the South wrestled with the problem of improving race relationships and enhancing the condition of southern Negroes. The people of the South felt then, as they do now, that the solution of this problem was their responsibility, their obligation—the obligation of white people and colored people working together.

Meantime southern people were not concerning themselves with the problem of relationships with other ethnic groups—for example, the Mexicans in the Southwest, the Asiatics on the Pacific coast, and the Puerto Ricans in New York. They conceded to the people who lived closest to these problems the right to work out their own solutions within the framework of moral and ethical considerations.

Since the precedent of quoting laymen in a judicial decision—in particular, Mr. Gunnar Myrdal, a Swedish sociologist—has been established by the Supreme Court, I feel privileged to quote an American novelist and Nobel prize winner in support of my views. He is William Faulkner of Mississippi, who, in an article titled “A Letter to the North,” which was published in the March 5, 1956, issue of *Life* magazine, said these words:

From the beginning of this present phase of the race problem in the South, I have been on record as opposing the forces in my native country which would keep the condition out of which this present evil and trouble has grown. Now I must go on record as opposing the forces outside the South which would use legal or police compulsion. I am just as strongly against compulsory integration. Firstly of course from principle. Secondly because I don't believe compulsion will work.

The white people of the South are constantly told that their so-called “treatment” of Negroes is a liability in our country's international relationships. We are said to be providing fuel for Communist fire. Therefore, Congress should pass a law to force people to maintain the right attitude toward each other.

I submit that the charge is as false as the remedy is futile.

I do not pretend to be an authority on international relationships, but I have been exposed to the relentless, unchanging Communist conspiracy, the purpose of which is to dominate the world.

They cannot do this while we stand strongly in their way. Every official act—legislative, judicial, or executive—that concentrates power in Washington at the expense of our sovereign States brings joy to those who would destroy us.

As I come to the close of this statement, I fully recognize how inadequate my words have been in an effort to portray a condition that needs to be experienced to be understood—that needs to be studied at firsthand rather than from afar.

The hardest working people I know are members of the Congress of the United States. There are many more demands upon their time than they can possibly meet. I thank you heartily for the time which you have given me today but, in connection with the problem with which we are mutually concerned, I sincerely wish you could find the time—and on behalf of all Mississippians for whom I now presume to speak, I invite you to come to Mississippi and talk to the leaders of both races. I think you would find, gentlemen, that almost with a united voice, you would be told that more legislation is not the answer to our problem.

Thank you, sir.

The CHAIRMAN. Thank you very much, sir. We appreciate your coming this long distance and giving us the benefits of your views.

Mr. CAMPBELL. Thank you, sir.

The CHAIRMAN. Now our good friend and colleague, Brother Ab-bitt, will introduce the Honorable Ernest W. Goodrich, common-wealth's attorney for Surry County, Surry, Va.

I would like to place in the record a statement of the Honorable Carroll Gartin, Lieutenant Governor of the State of Mississippi.
(The statement reads as follows:)

STATEMENT OF HON. CARROLL GARTIN, LIEUTENANT GOVERNOR OF THE STATE OF MISSISSIPPI

Mr. Chairman, the bills being considered by your subcommittee are of vital importance to the people of my State, and I have requested permission to file this statement with the subcommittee in opposition to this far-reaching legislation.

During the past 8 years, I have had the honor and privilege to serve the people of Mississippi as Lieutenant Governor. In the performance of my duties in this office, I have had an opportunity to come into daily contact with the people of my State, in every corner of the State. As presiding officer of the State senate, and as acting Governor on those occasions when the Governor was absent from the State during this period, I have had considerable responsibility in the matters now being studied by this subcommittee. I know my State and I know the people of Mississippi. Segregation will be preserved. I make this statement fully conscious of the problems involved and keenly aware of the desire of the people of both races to maintain segregation.

Mr. Chairman, I have read and carefully studied the major bills now being considered here. I do not recommend their passage. In my judgment, they are not acceptable and they cannot be amended so as to make them acceptable. The present situation is one which will only grow worse with the passage of any additional legislation.

We will not have integrated public schools in Mississippi. I urge this committee not to approve legislation which will lead to the destruction of our public school system and wipe out the progress made in our State since 1865.

At this time, Mississippi has a tremendous school building construction program, commenced prior to the school segregation decision of the Supreme Court in 1954. This program is progressing rapidly and assures the most modern school facilities to the children of both races. Salaries of teachers of both races have been improved. The people of Mississippi love our public school system and will make any necessary financial sacrifice to assure an education to the children of both races. However, we will not have an integrated public school system. There will be no mixing of the races in our public schools.

I want to make just a few comments about the major provisions of the proposed legislation being considered by this subcommittee.

The courts now have adequate authority to enforce their own court orders in specific cases by the use of contempt proceedings, injunctions, and other processes available, and it is unnecessary that additional legislation on this subject be adopted, and particularly some of the broad language suggested in the bills is extremely dangerous. Additional legislation on this subject is unwarranted and useless.

It is now proposed that the life of the Civil Rights Commission be extended an additional 2 years. Why perpetuate this colossal failure? Why not let it die a peaceful death? It has never really lived. After flyspecking the Nation, this Commission could find only two isolated spots in the Nation (Georgia and Alabama) in which to waste the taxpayers' money investigating. Even now, we are told that most of the Commissioners, who never really functioned, are ready to resign. This Commission is ineffective, it is useless. Without question, the Congress has power to investigate, through its committees, and this power should not be abdicated to a commission such as this one—strictly a political and publicity group. Its failure is well known and recognized by all who have any knowledge of the subject.

Other provisions of the legislation simply would complete the federalization of not only our schools, our elections, and our criminal procedures, but would further abdicate the powers of Congress. These bills should be described as the "force and purchase" bills.

Mississippi will not be bought. We will not sacrifice our principles. We will not ignore the Constitution, which wisely preserved to the States the right to regulate their internal affairs. We will not be a party to a change in our complete system of constitutional government, sought because of some book on psychology or sociology, written by persons having no real experience or actual

knowledge about race relations. We feel that the Supreme Court decisions of years prior to 1954 were correct, such as *Plessy v. Ferguson*, decided when the Court read and cited the law and previous court decisions instead of unfounded theories, in support of far-reaching new decisions affecting millions of people.

The Constitution of the United States authorized and empowered the Congress to enact the laws. The Constitution did not give the Supreme Court this power but it has been assumed by the Court. I respectfully suggest that this committee should consider legislation to prevent further unauthorized abuse by the Court of the powers reserved to the Congress, as well as the States. The mere fact that some feel that additional legislation is necessary to "carry out the decisions of the Court" should be ample proof that the Court has been legislating rather than interpreting laws adopted by the Congress and provisions of our Constitution. It is strange indeed that these "constitutional questions" were permitted to sleep so long and so soundly, undisturbed, before suddenly being rudely awakened by the Court in 1954. I submit that Federal authority in public schools never existed. The Congress should not become a party to assisting in enforcing something that does not exist except in the theories of psychologists and sociologists. This is not law. It is not reason.

Mr. Chairman, I believe in the sovereignty of our States and in local self-government. The qualification of electors has always been considered a State and local responsibility. Free elections continue to be the bulwark of our liberty. Will anything whatever be gained by granting authority to the Federal Government to pester, molest, and intimidate our local officials in the conduct of elections? Of course not. There will be more power gained by the bureaus in Washington and less retained by the people, the very foundation of our Government. Where is it to stop? Passage of this legislation would be another step in extending complete authority to the Federal Government.

I deplore the bombings of public buildings, as does every honest citizen. But must we make everything a Federal crime? We have adequate authority in the States, and the facilities and personnel and courts to identify and convict criminals. Why single out such bombings? Why not murder, arson, assault and battery, and stealing cotton? Legislation from Washington is not the answer and I urge that it not be added to the list, already too large, of subjects over which the Federal Government has assumed complete control.

Apparently those who have drafted this legislation seem to feel that the magic of money will solve all problems. The entire Federal program seems to be to tax our people beyond the ability to pay, send the money to Washington, and let the Federal Government buy Federal friendship, in this country as well as abroad. Well, I like to keep the money at home, but why not let the States support their own schools with their own tax money, paid at the local and State level? Why send the money to Washington, to be sent back to the States, after a large percentage has been deducted, with an attached list of instructions concerning how you will run your school, who will attend, what subjects will be taught? I hope the time never comes in this Nation when the Federal Government will further take over our public schools, because our young people cannot be effectively taught by this system. What the Federal Government teaches in Washington is not wanted. Please do not extend this type of "learning" to Mississippi.

I urge that these bills, for the sake of the Nation, be forever buried and forgotten.

STATEMENT OF HON. WATKINS M. ABBITT, U.S. REPRESENTATIVE FROM THE FOURTH DISTRICT OF THE STATE OF VIRGINIA

Mr. ABBITT. Mr. Chairman, I appreciate this opportunity and I am not going to any lengthy introduction because Governor Tuck was here a little while ago and pointed out the qualifications of our next witness.

He is a graduate of the College of William and Mary and George Washington University. He has had extensive experience in law and he was here before the war, World War II, in Washington, representing legally one of the departments. He is now commonwealth attorney of the County of Surry, Southside Virginia.

He has been a distinguished law professor of William and Mary College and has appeared before this committee on other occasions.

It gives me great pleasure to present my friend and one of my constituents, the Honorable Ernest W. Goodrich, of Surry, Va.

STATEMENT OF HON. ERNEST W. GOODRICH, COMMONWEALTH'S ATTORNEY FOR SURRY COUNTY, SURRY, VA.

Mr. GOODRICH. Thank you.

Mr. Chairman and members of the committee, I would like to ask you, sir, if you want me to cut my statement short. Do you plan to adjourn at noontime? I don't want to trespass on your time.

The CHAIRMAN. We want to hear a number of distinguished gentlemen. The former Governor of the State of Florida and the Governor of Alabama are here and we would like to hear them. So you can understand the exigencies under which we labor.

Mr. GOODRICH. I have a prepared statement and I believe that if I read this it will be the quickest way, rather than trying to talk ad lib. I would much rather talk without it, but I think it would be quicker to read it.

The CHAIRMAN. You can address us any way you wish.

Mr. GOODRICH. My name is Ernest W. Goodrich, I am from Surry, Va., across the James River from Jamestown, the birthplace of this Nation. I was graduated from the College of William and Mary, in Williamsburg, Va., where many of the great minds of our Nation were trained in the early days. I received my LL.B. and LL.M. from George Washington University. From 1935 to 1939 I was associated with the Department of Labor here in Washington. During World War II, I served in the U.S. Navy for about 4 years. Subsequent to the war, I lectured in jurisprudence at the College of William and Mary for 4 years. Since 1940 I have been attorney for the commonwealth for Surry County, except for the 4 years spent in the service.

This is my third appearance before a congressional committee in opposition to the civil rights legislation. The first appearance was before the Senate Judiciary Committee, and this committee allowed me the privilege of appearing before it on February 13, 1957. I am grateful to you for the opportunity to be heard again.

As I pointed out at the time of my prior appearance, I shall probably add nothing new to what you have already heard. I disagree heartily, however, with those who would cut the hearings short on the theory that all has been said that can be said on the subject. The issues involved here are so vital to the future of our Nation that these hearings should continue until the people of this great Nation realize and understand the full import of the proposals before you.

Before commenting on the bills before you, I would like respectfully to call the committee's attention to my statement made before this body on February 13, 1957, appearing on page 979 of the hearings before subcommittee No. 5. What I said at that time applies to the present proposed legislation. The basic and fundamental dangers of further centralization of our Government, which is inherent in the civil rights legislation, is more frightening today than it was 2 years ago. The one thing most disturbing to me about the whole matter is the apparent unwillingness of this committee and the Congress to come to grips with

this basic issue. While I have not read all of the record of the previous hearings, I have read a considerable amount, and not once has the committee by its questions seemed to be concerned with this point. Witness after witness in the previous hearings pointed out the potential danger of the proposed legislation on the division of powers between the Federal and State Governments, yet the main concern has seemed to be for a mere handful of citizens who allegedly have been denied certain rights. Can it be that the welfare of a few is so important that we must destroy the basic fabric of our Government in an attempt to protect those few? Or is it the feeling of our elected representatives in the Congress that while a republican form of government for these United States, with a division of powers between the States and Federal Government, was all right during the past 175 years, it is now outmoded and a new concept must be adopted? The elimination of all discrimination in this country cannot be achieved through the enactment of laws. However desirable such a condition would be, its attainment, short of the second coming of our Lord, is not possible. Attempts by law to bring it about will surely destroy this country for the very obvious reason that the vehicle used in its attempt, when manned by men with a different view, will be used to crush the very minority groups you now seek to protect. This, of course, is the mortal danger of the philosophy of the present Supreme Court. Once you depart from precedent and a rule of law, and substitute therefor the judgment of men as to what may or may not be socially desirable at a particular time, you lose every vestige of protection of personal liberty.

I was with the Federal Government during the depression days, during the early days of the New Deal, for 4 years with the Department of Labor, and I was in the Navy for almost 4 years here in Washington during World War II, and I say to you advisedly, gentlemen, that there is no man in Washington, there is no man from President Eisenhower on down that is intelligent enough and smart enough to regulate the lives of 175 million people. The overall result of these bills is to decentralize further here in this Capital City the control over the lives of the people and I say to you that no man is smart enough, no man is intelligent enough to administer laws of that nature.

The CHAIRMAN. It was at that time that the people of this country were rebelling against the so-called New Deal alphabetical laws and they took refuge in the Supreme Court and they came forward to protect the rights of the people.

Mr. GOODRICH. Yes, sir. If you remember, in 1937 when the Court packing bill was up, because the Supreme Court had thrown out some

Mr. GOODRICH. Yes, sir. If you remember, in 1937 when the Court decisions from that time on. This was one of the terrible things that happened in this country. The distinguished constitutional law professor from Harvard, Dean Powell, spoke about that time before the National Lawyers Guild, of which I was never a member, but some of whose meetings I attended. He said that the Court at that time—I have to use a little different language than he used because ladies are present—reminded him of certain lines from Richardson's "Pamela," which went something like this: "He had a design to ravish her and would have accomplished his purpose, had she not by prior consent prevented him therefrom."

The Court, according to Dean Powell, seemed to be accommodating itself to a new approach. Instead of being a bulwark, and I think

that was the turning point in the Court's role, instead of being a bulwark to protect us, I think their philosophy changed after that and they began an era of approving measures that before that time the Court had protected us against.

The CHAIRMAN. What I am trying to drive at is, you took great comfort in the wonderful decisions of the Supreme Court in that era. Now I take it you take discomfort from the decisions of the Supreme Court like the Brown case.

Mr. GOODRICH. And I do so, sir, for this reason, because I think the Court has departed from the principle that governed the earlier Court in relying on the Constitution as it had been interpreted over a great many years. We could have a considerable argument about whether the Court, this present Court, in that football decision or baseball decision seemed to go back to precedent, but yet in this field of social legislation they don't feel compelled at all to rely on what has gone before, and that is a dangerous thing, sir.

The CHAIRMAN. There have been many cases where the Supreme Court has really reversed themselves and failed to follow the principle of stare decisis. We have that in the football case and you have that in the Southeast Underwriting case where they failed to follow the famous insurance case of Paul against Virginia. You have that in the Child Labor cases; you have that in the Triple "A" cases. The Supreme Court has frequently reversed itself and failed to abide by precedent and determined the case before it as a result of new developments, new mores, changing conditions, and so forth.

Mr. GOODRICH. Doesn't that, sir—when they do that to the extent that they have now and as Mr. Gravatt said, we are not alone in our position because the chief justices of all of the State courts in the country with the exception of a few that voted against it, said the same thing, indicate what I am trying to say—that the Court has gone beyond its function of serving as a brake, so to speak, and is attempting to legislate rather than interpret.

You asked the question of Mr. Gravatt as to what the Congress should do. I would like to answer that question this way. The Congress, if this is a desirable end, if the control of education is to be taken from the States or if integration—let's say it bluntly—if integration is a desirable end, then, gentlemen, let the Congress propose an amendment to the Constitution and clarify the thing and let the people of the country vote on it and let's not do it by judicial legislation.

You say, well why doesn't the other side do that. Well, obviously the change has been brought about by the Supreme Court and it seems to me that the burden is upon those who would advocate change to go to the people which have the right to change the basic law, and I say this, if they say by constitutional amendment that Virginia cannot control its school operations or must eliminate segregation, Virginia would go along with it as she has in the past on other matters.

Now, don't misunderstand me. There are areas of Virginia, gentlemen, that will never in the lifetime of any person in this room operate mixed schools. Now I don't say that in defiance of the Supreme Court at all.

The CHAIRMAN. Do you think that the people of the country would accept an amendment repealing the 14th amendment?

Mr. GOODRICH. No, sir, I don't think so and I would not suggest that. I would not suggest that, but I would suggest a—if you want to call it that—clarifying amendment because many of us believe sincerely, as other people believe the other way, that the 14th amendment does not cover the operation of public schools, that the operation of a dual system of public schools is not a denial of equal rights.

We do not subscribe to the theory that separate is inherently unequal. We don't think that the facts support that. We don't believe that is true. The Supreme Court has said it is, I realize that.

The CHAIRMAN. I take it you would suggest a constitutional amendment to provide that the Federal Government has no right to dictate to the States the manner in which the States shall conduct their schools. Is that correct?

Mr. GOODRICH. Well—

The CHAIRMAN. I am striving toward getting from you some sort of advice on this.

Mr. GOODRICH. As I said, I would say that the people of the country should have the right in view of the long history, when another interpretation was placed on the 14th amendment—if you are going to change that—the people should have a right to express themselves on that point like they did on the amendment originally.

The CHAIRMAN. What form would that take? What form would the constitutional proposal take?

Mr. GOODRICH. Mr. Chairman, I don't know that I could give you a specific proposal. I would say that that could be certainly worked out so that questions could be submitted to the people for an amendment to the Constitution.

Coming now to the specific legislation before you, I desire to discuss H.R. 3147 and H.R. 3148.

Before commenting on these bills, however, let me say this. I come from a county where 65 percent of the population is colored. The school population is 3 to 1 colored. The same situation exists in about 13 counties in Southside, Va., and obtains in large areas of all of the Southern States. I cannot speak for other areas, but I believe I can say, categorically, that there will be no integration in my area within the lifetime of any person now living. I do not say this in any defiant manner. It is merely a statement of absolute fact. It is easy enough for the great crusaders to preach integration objectively as a desirable result; it is quite another thing to attempt subjectively to bring the condition about. Our problem is one of numbers, just as is the Mexican problem in the Southwest and the oriental problem on the coast. Those of us from the South are pictured as narrowminded, bigoted, intolerant, race baiters because we oppose integration, and yet most of those who preach it have no contact with the problem. If you will help reduce our colored population by resettlement so that our average is the national average, you will not need legislation to bring about integration; it will come of its own accord. On the other hand, as long as the proportion remains the same, integration can be achieved only by physical enslavement of the white population.

Coming specifically to H.R. 3147, which is the comprehensive bill by which the enforcement of integration is sought, let me say that the zeal to do good has, it seems to me, blinded the proponents to the serious dangers inherent in legislation of this scope. In the first place,

the findings as expressed in title I, section 102(a) (1) "express the moral ideals of the Nation and the world and point the way to a nation enhanced in strength and dignity at home and enhanced in honor and prestige throughout the world" are, in my judgment, exactly contrary to the facts. Nothing has happened since 1860 to cause so much bitterness and division in this country as the antisegregation decisions. For years the moral ideals of the Nation saw nothing amiss in a dual system of education. Certainly this country has had nothing to be ashamed of when judged in this field by the moral ideals of the world. Certain it is that the lot of the American Negro has been better than that of 90 percent of the world population. Despite the hue and cry raised by proponents of the civil rights legislation, the stature of the United States in the world depends not one iota on how we handle our domestic affairs. As the chairman of this committee said when Senator Javits was testifying in 1957 at page 689: "Some of those leaders in Asiatic countries who make that accusation are turning their cheeks * * * I received with rather mixed emotions some of those statements made by some of those individuals." Unless you are ready to accept the "One World" concept and turn our domestic affairs over to the United Nations, I beg you to consider this legislation only in the light of its effect on the people of this country. Do not try to legislate to please the world.

The CHAIRMAN. What I said then I still feel, I still agree to.

Mr. GOODRICH. I am sure you do, sir.

In title 1, section 102(a) (4) and (5) broad findings of denial of constitutional rights to millions of persons is not in my judgment supported by facts. If the dual system of education is a denial of equal protection, and if it has deprived millions of Negroes of "maximum development and maximum benefits that can be contributed," how do you account for the fact that percentage-wise there are more colored property owners and professional and business people in the South than in the North? Except for the findings of certain sociologists, on which the Supreme Court based its decision, do not the facts prove that under a dual system of education the Negroes have made greater progress in the South than in the North?

Title I, section 102(a) (6) (A) assumes that the State will not protect its people. Such assumption is unwarranted and is but another excuse for further inroads by the Federal Government into purely State matters.

Title I, section 102(a) (6) (B), finding that action by the executive and legislative branches of the Government will aid in "expediting universal compliance" with the Court's decision is contrary to human nature. Interference as contemplated by this bill will do more to hinder compliance than anything that could happen. Little Rock will have to be experienced over and over again.

Title I, section 102(b) likewise will have the opposite result from that set out.

Title I, section 102(c) (1) as to "punitive measures against the individuals and organizations engaging in and supporting efforts in the courts to assert those constitutional rights" is not in my opinion a true statement of fact. It is unfortunate that the allegations of this nature do not have to be proven. If the white people of my area wanted to punish the colored people by refusing them a place to live, credit,

et cetera, it could be done, and I know of no right of the Federal Government to interfere unless they are going to enslave the white people.

Title II of the proposed bill regarding technical assistance by the Secretary of Health, Education, and Welfare is purely and simply another waste of the taxpayer's money. There are no specialists in dealing with this highly emotional problem. Outside interference will only accentuate the problem.

Title III providing for grants is the favorite method of the Federal Government to gain a toehold in State affairs. Participation by a State or locality would pave the way for Federal domination of education, a goal long sought by many of the most vocal advocates of the civil rights legislation.

Title IV providing for plans for desegregation, like title II, is a waste of the taxpayer's money. Even the Supreme Court did not envision the solution to be had in Washington.

Titles V and VI are, of course, the core of the proposed bill, and all the rest is merely an excuse for action by the Attorney General. I cannot conceive of a situation more detrimental to the future of this country than that proposed here. Under title V, the Attorney General would go into thousands of school districts in the South and seek to enforce the plan devised by Washington by the injunctive process against local officials. This is the Reconstruction Days all over again. I cannot believe that fair-minded men, who have the interest of this Nation at heart, can seriously urge such grant of power to the Secretary of Health, Education, and Welfare and to the Attorney General.

The far-reaching effect of title VI and H.R. 3148, which is of similar import, frightens me, as I am sure it does many others. To authorize the Attorney General, on complaint of a person that he is "being threatened," to proceed against the person allegedly threatening, will result in harassment of the citizens of this country on a scale beyond imagination. The Attorney General will become the private attorney for countless thousands whose grievances are trumped up. While I know that the gentlemen who are sponsoring this legislation are just as sincere in their position as I am in mine, and abhor communism just as much as I, can't you see how the Communist and fellow travelers will use this to harass honest, sincere and patriotic American citizens? Let us not, in order to protect one group, crucify another group.

My friends, let us not destroy all that has made this country great in an effort to correct the ills of society. Better discrimination continue, as it surely will until the millennium, than our country be destroyed from within. The Federal Government has the power to crush my little county. It can prevent us from operating segregated schools but it does not have the power, short of total enslavement, to force the mixing of the races in the public schools. The efforts to do so will force private education, maybe in the home, without any financial help from tax money, but at the same time the education of the Negro will be seriously retarded through lessened public support of the Negro schools. If you have any doubt that I speak the truth, you visit any area where the population is predominately Negro.

Let me say one further thing and then I am through. Do not be misled as far as Virginia is concerned by what has happened in Arlington and in Norfolk, nor by the newspaper accounts of a seeming divi-

sion in Virginia at the present time as we labor in Richmond in an attempt to work out a solution of this problem. The people of Virginia have spoken on three different occasions statewide, and a great majority have said in no uncertain terms that they want to remain firm.

Now, you say your massive resistance laws have fallen. I say to you that is not a decision of the people. The massive resistance of Virginia is a righteous cause and is stronger today than it was a year ago and it will be stronger a year from now.

I don't think it is possible, gentlemen, for the matter to be solved by civil rights legislation and I think that all that the civil rights legislation of the nature that you have here will do is to make stronger the determination of a free people to govern their own affairs.

I thank you for your time, gentlemen.

The CHAIRMAN. We are very grateful to you, sir, for giving us your views.

Mr. McCULLOCH. Mr. Chairman, I would like one minute.

In view of the last sentence of your statement, Mr. Witness, which you have just finished. I would like to ask, did you mean that statement to apply to every title of H.R. 4475—title I, which relates to the obstruction of justice, and title 2, which relates to flight to avoid prosecution for destruction of educational or religious structures; title 3, which relates to the matter of preservation of voting records compiled in elections in which a President or Vice President of the United States or a Senator or Representative to the Congress of the United States is elected? Did you mean that statement to apply to all that?

Mr. GOODRICH. Let me say this: I did not mean to slight your bill. I thought that Mr. Celler's bill was the more dangerous of the two—was a stronger bill against us and that is the reason I devoted my time to it.

I do not believe—let me say this—that you need Federal legislation to have law enforcement in the State of Virginia. I am a prosecuting officer in my own county and if anyone bombs a building there, I will do everything that is within my power to see that they are brought to justice.

When a colored man comes before the court in my county, I can say to you under heaven that he is accorded every right that any white man is accorded, and my only objection to your bill, that is titles I and II, is that I don't think it is needed. Of course, I will concede this, that the kidnaping act has had a salutary effect upon preventing kidnaping, I believe. It might be that this bill covering flight to avoid prosecution could come under that same general heading and it might be helpful. But I am against the Federal Government passing laws in the field in which the State has the power, has the right, and it seems to me the willingness to enforce the law.

Mr. McCULLOCH. I certainly would agree with your last statement and the provisions in 4457 are drafted for the purpose of only bringing some enforcement of perspective rights into States where there is no such enforcement, and lest there be an improper position or opinion held with respect to my feeling on this matter, we are not free from fault in my own State of Ohio. The proposals of 4457 could just as well apply to Ohio or Michigan or Illinois or Pennsylvania as it could to Virginia or Mississippi or any other State in the Union.

You can pick out any particular State and find that these problems exist.

The CHAIRMAN. Thank you very much.

Now, gentlemen, we are confronted with three witnesses, all distinguished men in their own right: the Governor of Alabama, the former Governor of Florida and our distinguished colleague, Mr. Bryan Dorn. I am in a quandry as to who I will call first. I wish you gentlement would agree among each other as to who will take precedents here. I know you want to get away.

Mr. HERLONG. Excuse me, Mr. Chairman, Governor Caldwell has only a 10-minute statement.

The CHAIRMAN. All right, Governor Caldwell, you might step forward and we will welcome you back in the fold as a former member and as a distinguished former Governor of the southern State of Florida.

I take it our distinguished colleague will want to say a few words to introduce him. Mr. Herlong.

Mr. HERLONG. Mr. Chairman, first I would like to express my appreciation to you and to the committee for your kindness in permitting Governor Caldwell to come before this committee and also for your patience and tolerance which you have shown to these witnesses who have come before this committee. I am sure you will give that same tolerance and kindness and patience in your consideration of the legislation before the committee.

I shan't make a statement myself, Mr. Chairman, but the witness that I shall present, as you know, is a former Member of Congress and a former Governor of the State of Florida, a former Federal Civil Defense Administrator and presently the Chairman of the Florida Commission on Constitutional Government, a creature of the Florida State Legislature which has among its membership such distinguished Americans as former Governor Carpen, who is a member of the Federal Civil Rights Commission, and Mr. Fowler, who is former president of the American Bar Association.

It is my pleasure, Mr. Chairman, to present to you one of Florida's finest governors, Millard Caldwell.

The CHAIRMAN. We are always happy to welcome into these halls a former Member who returns to the scene of his crimes. Governor, we are glad to hear from you.

STATEMENT OF HON. MILLARD F. CALDWELL, FORMER GOVERNOR, STATE OF FLORIDA

Mr. CALDWELL. Mr. Chairman and gentlemen of the committee: I suggest that, in considering the wisdom of proposed civil rights legislation, it is necessary that we take our thinking out of the political sandbucket and examine the overall problem of preserving America as a free nation.

Although the free world leadership has been thrust upon this country and we have assumed that responsibility, it does not follow, if the important political people of the Nation continue to indulge their propensities for thought control and police State legislation, that we either can or will function long in that capacity.

The future of civilization as we know it will be fashioned in the arena of American politics. Whether that future is to be bright or dark will be determined by the quality of American leadership—its integrity and its wisdom.

A fair appraisal of the current situation tells us that we are in trouble—that our international relationships are pathetically bad; that we have lost preeminence in the fields of science, missiles and military endeavor; that our economy is beset with uncertainties and our people are being divided by class and racial dissension.

I am sure that, as responsible Americans, you are greatly concerned for the future. In your evaluation of present-day conditions you must have reached the inevitable conclusion that we are now engaged in the major war of all time. And you have undoubtedly identified the enemy as a combination of the Soviet Union and the misguided left-wing liberals here at home.

We all know that the Soviets have proclaimed their intention to destroy democracy generally and democracy in America in particular. We know also that the Kremlin, having launched its attack, has marshaled its forces in Russia and is now marshaling its friends in this country.

Our internal enemies are posing, not as subversives or quislings, but as do-gooder patriots who, in the guise of humanitarianism, are following the Red line, either consciously or unwittingly. They are contributing to the Soviet program which, as you know, comes in two parts: The first, self-destruction by the United States and, second, if the first should fail, military aggression.

The adroit self-destruction phase of the Russian attack incorporates the persuading of our Nation to spend and tax itself into bankruptcy; to centralize all authority in Washington; to destroy the constitutional guarantee of State sovereignty; to encourage the usurpation by the Supreme Court of the congressional prerogatives to write the law and conduct investigation; to encourage the usurpation by that Court of the sole right of the States to amend the Constitution; to prod the Congress in the creation of a seething class and racial consciousness which will, as of course, result in the essential sectionalism and hate so necessary to their aims.

It is often difficult for Congressmen, immersed in their manifold duties and harassed by unceasing calls upon their time, to see the long-range picture in perspective. If you busy Members could have more time for thought on the big questions you could more certainly avoid the dangers incident to unwise legislation colored by momentary expediency.

I believe it would be apparent, upon sober reflection, that the artificially stimulated clashes between the races, whether in Germany, Russia or elsewhere, have historically produced catastrophic results for the minorities. The passage of the bills under consideration will help history repeat itself, but, this time, in this country.

There's something about racial struggle which breeds contempt for constituted authority—there's an evil substance in those conflicts which poisons and distorts the processes of orderly thought. The Supreme Court, in its Myrdalian decision of 1954, abandoned stare decisis and ignored the Constitution. The Attorney General counseled action which he should have known to be illegal. The President, act-

ing upon that advice, violated the laws of the Nation by the use of troops to enforce an invalid decree. Citizens, otherwise law abiding, turned to violence and vented their spleen on persons, groups, churches and schools.

Although the truth may never be told we can be quite sure that the Supreme Court has seen and regretted the error of the Brown decision; that the Attorney General is ashamed of his advice and that the President is sick of the whole mess.

But there's no profit in regretting the Brown decision, the Little Rock debacle, and the near vital wounds they inflicted. We can only hope the Court will find some way in which it can gracefully recede from an untenable position and give the responsible people of the country an opportunity to repair the damage, reestablish an amicable racial relationship, and recover Constitution government.

I hope the Congress will avoid every action designed to further divide the country and its people. Whether you favor integration, segregation, or some middle ground is a matter of personal preference, but whether we have unity in our fight against a common enemy is a matter of vital and National concern. We cannot afford the luxury of briar patch skirmishes and bushwhacking.

We in the South learned, in the first tragic Era of Reconstruction, that a better racial relationship lies in the direction of quiet, unostentatious assistance to a steadily improving Negro education, health, and living standard and we are finding, in this Second Reconstruction, that that policy pays far more desirable dividends in the coin of good citizenship than does the bestirring of the cauldron of racial hatred. We believe the Congress would find it profitable to follow that course.

Understandingly, we are primarily concerned with the effect of your actions upon our own problems. We are apprehensive that, if the Congress continues to aggravate an explosive situation by the enactment of further civil rights legislation, our communities below the Mason and Dixon Line will suffer as disastrously as have the cities to the North.

If it's at all possible we want to avoid the racial clashes, violence, and squalor which have sorely beset those cities. We hope to escape the exodus of city taxpayers to the suburbs, which has proven so costly to Washington and to the Northern communities. We cannot provide nor can we pay for the army of police required to prevent violence in the schools, as in New York City, and to prevent riots and bloodshed, as in Chicago and Detroit.

Mr. Chairman, your committee awaits the report of the President's Committee on Civil Rights. To proceed with additional legislation in advance of that report would be an ill-advised and premature action.

We hope that you, that this committee, in its wisdom, will put all pending civil rights legislation on the shelf and give the country a breathing spell.

Thank you very much for the privilege of submitting my views.

Mr. McCULLOCH. I would like to say this: I am of the opinion that there isn't unanimity concerning the fourth paragraph of your statement. If we have lost preeminence in the field of science and missiles and military endeavor and our economy is beset with uncertain-

ties, certainly that condition didn't prevent a lot of "fiddling" down in your home State in this last season.

Mr. CALDWELL. Thank you for the plug for my State, but my State will get along pretty well under even bad conditions, Mr. McCulloch.

Mr. McCULLOCH. I found that to be true.

The CHAIRMAN. Thank you very much.

I note the presence in the room of many of our distinguished colleagues, among them our distinguished colleague from Mississippi, Mr. Williams, and Mr. Dorn of South Carolina, who will testify, I take it, a little later.

We also have the following sons of the great State of Alabama. Grant, Andrews, Selden, Boykin, Rains, and I understand, Mr. Andrews, you want to introduce your Governor of your State.

I beg your pardon, we have Bob Jones, also from the State of Alabama.

Mr. ANDREWS. Mr. Chairman and members of this committee, I want to thank you for making it possible for our Governor to testify at this time. He has to return to Alabama as soon as possible.

Several years ago the attorney general elect of Alabama, who was the father of our witness and who was a maimed veteran of World War I, met an untimely, tragic death in Alabama, after having just been elected to serve as attorney general. After that tragedy, his son was selected to serve as the attorney general. This young man, is also a veteran of World War II, a distinguished lawyer. He served 4 years with a marked degree of distinction as our attorney general in the State of Alabama.

Based largely on his record as attorney general, the people of Alabama elected him to our highest office by one of the biggest majorities in the history of our State. He assumed the duties of that office last January and has conducted himself with ability, dignity, courage. I think that the people of Alabama are fortunate at this time, which is one of the darkest periods of our history, to have as our chief executive your next witness, the Honorable John Patterson, Governor of the State of Alabama.

The CHAIRMAN. We welcome you, Governor, and are very glad to hear from you.

Mr. ROGERS. Mr. Chairman, inasmuch as I may have to leave, since I was quoting and making some statements about hearings down in Alabama last year, Governor, I just want to say that if I leave it isn't because of the statement that I made, but I know that you as Attorney General are familiar with a number of these bills and I just wondered if you had an opportunity, as for example, to examine a statement that was prepared by one of the gentlemen from Alabama, Mr. Jones, as it relates to 3147. That has been placed in the record here.

Mr. PATTERSON. I am not familiar with the statement by Mr. Jones, but I am familiar with 3147.

Mr. ROGERS. Well, there is a good analysis of that by Mr. Jones and I may also say that the gentleman who introduced you, Mr. Andrews, and Mr. Grant and all have been very vociferous, together with Selden and Mr. Boykin and Mr. Carl Elliott, and I see that Kenneth Roberts came in, and also Mr. Huddleston, have been very vociferous against all of these civil rights bills and sometimes it is difficult to get along with them unless you can discuss it with them intelligently. I am sure

that when you get through with an analysis of 3147 you will see what they are driving at is a question of voting in Alabama, I believe.

The CHAIRMAN. At this point I have a statement from Congressman Jones of Alabama that I would like to place in the record.

(The complete statement of Congressman R. E. Jones, Jr., is as follows:)

STATEMENT OF CONGRESSMAN R. E. JONES, JR., OF ALABAMA

Mr. Chairman, Members of the committee, due to the fact that numerous so-called civil rights bills have been submitted to the Committee on the Judiciary for its consideration, I shall limit my remarks to three specific bills which it is my understanding are to receive primary consideration. I rise in opposition to H.R. 3147, H.R. 3148, both introduced by Mr. Celler, and H.R. 4457 introduced by Mr. McCulloch. I shall devote most of my attention to H.R. 3147.

In my opinion, the fundamental issue with which the committee is confronted in considering these bills is whether or not we should consent to intrude the authority of the Federal Government over matters which traditionally and constitutionally have been reserved to the States and to the people.

The 10th amendment to the Constitution of the United States reserve to the States all powers not specifically delegated to the Federal Government. It always has been an accepted fact in all sections of the country that the operation of the public schools is a reserved power of the States. The three bills I have mentioned would destroy this universally accepted State reserved power and place the responsibility for operating and maintaining public schools in the hands of certain members of the executive branch in Washington.

The implications of delegating a power to the Federal Government by statute rather than by an amendment to the Constitution are so far-reaching as to affect the lives of every citizen in every State in the Union. A dangerous precedent would be set if this proposed legislation were to be enacted into law. Although the admitted intention of these bills is to punish the States of the South for operating their public schools in a manner which even the Supreme Court declared to be constitutional until 1954, all of the States would be irreparably damaged by Federal usurpation of their constitutional powers.

In attempting to punish the Southern States by permitting the Federal Government to usurp constitutionally reserved powers of all the States, the rights of legal and orderly dissent and of petition for relief of grievances are also being undermined. The South does oppose the decisions of *Brown v. Board of Education* just as the North opposed the *Dred Scott* decision. Surely no thinking person could decry lawful attempts by the States to operate within the boundaries of the law of the land and at the same time to operate in such a manner as to maintain order by gradual, sensible change.

Grave consequences have resulted from the *Brown* decision. Time is necessary to effectively and orderly operate under the new law of the land, that is, the new statute promulgated by the judiciary rather than the legislature. The new law of the land overruled not only *Plessy v. Ferguson* (1896) wherein separate but equal facilities were declared to be constitutional, and under which the States had operated their reserved power of public education for over 50 years, but also overruled *Sweatt v. Painter* (1950) wherein Negroes were required to be admitted to the University of Texas law school not because separate facilities existed but because the existing facilities were deemed not to have been equal.

These decisions under which the States had acted in good faith were not overruled by the time-honored practice of *stare decisis* but, rather, were overruled by reference to psychological and sociological assumptions which not only are not within the realm of judicial responsibilities but also certainly are not of such a mature, sophisticated state that they should be used as evidence upon which to construct the law of the land. The major reason offered by the Supreme Court for overturning over half a century of precedent was that equal but separate facilities generated a feeling of inferiority.

Title I of H.R. 3147 not only eulogizes the *Brown* decision but also permits a statement to be placed in the statutes which specifically authorizes and calls upon the executive branch of the Federal Government to usurp the oversight reserved powers of the States relating to operation of the public schools. Thus, despite the fact that the Supreme Court is attempting to rule by judicial edict, despite the fact that State control of a State matter has been undermined,

despite the fact that more students than ever before of all races are attending State public schools under State supervision both in the South and in the entire Nation, an attempt is made in title I of H.R. 3147, first, to eulogize a decision which has resulted in the closing of many public schools, and, second, to take control of public education away from the constitutionally authorized and extremely successful system of public schools and to place public education control (a) in the hands of the very courts responsible for the closing of so many of our public schools and (b) in the hands of the central government.

I regard the closing of public schools as a terrible thing. Universal public education is the American ideal. Yet, Federal control is no answer to the problems confronting the American public school system. We in Alabama are proud that we have been able to at least partly solve the problem forced upon us by the Brown decision. The Alabama pupil placement law of 1955 not only has been held constitutional but definitely is a step in the right direction. I sincerely hope that the States will be permitted to solve their problems without unwarranted interference from the Federal bureaucracy. I can proudly say that Alabama can and will solve the problem which these so-called civil rights bills pretend to solve. Alabama can solve these problems without forfeiting its constitutional powers and responsibilities to the Federal Government.

Titles II, III, IV, and V of H.R. 3147 (and similarly title VII of H.R. 4457) represent perhaps the most flagrant attempts I have ever seen to destroy State authority over a constitutionally authorized function. Under title II, the Secretary of Health, Education, and Welfare is to provide technical assistance for developing desegregation plans and is to supervise conferences on desegregation, pay desegregation specialists, and appoint advisory councils at all governmental levels. On the surface, this would appear harmless enough, although I must admit that I have never before heard of a "desegregation specialist" or a "desegregation discipline."

Title III outlines how the seemingly harmless title II is to be implemented. It appears that grants are to be made to areas where desegregation in public education is being carried out. These grants are to go not only to States but are also to go to municipalities, school districts, and other units of local government which have been desegregated since May 17, 1954. These grants are for the purposes of training teachers in principles of desegregation, of hiring teachers, and of construction, enlargement, or alteration. Of course, these schools must report to the Secretary of Health, Education, and Welfare. The Secretary himself determines the amounts and terms of the grants. Additional grants would be made to public and nonprofit institutions for short courses in desegregation. H.R. 3147 recommends the authorization of \$40 million for these purposes.

It is an old adage that the power of the purse is the power to destroy. Titles II and III provide a means whereby a single administrator of the Federal Government can place his will over the wills of duly authorized State and local officials. The Secretary can pass over and ignore State officials and deal directly with local governments and, thereby, tend to create a unitary rather than a Federal system of government such as is provided for by the Constitution. He can install schemes of reporting and of amounts and terms. He can even install schemes for eliminating erring schools from receiving grants. This is a great deal of power to give to one man. It involves a form of centralization which is alien to the American Constitution and to American customs and traditions. In addition, the heavy reliance upon "desegregation experts" is an example of another attempt to force the ideas of an unproved discipline upon the operations of duly constituted, experienced, local school officials. I believe that this undue reliance upon a field in which no valid claim to expertise exists should not be a part of any civil rights bill.

Although titles II and III provide the Secretary with broad, sweeping powers over the purse of the Federal Government and over the budgets of constitutionally created local school systems, the provisions of titles IV and V provide the Secretary with powers of such broad scope that the powers he receives under titles II and III actually look mild by comparison. Under the provisions of title IV, the Secretary is authorized to construct tentative desegregation plans for segregated areas and school districts. The Secretary is to forward his plan to the responsible official(s). Hearings will then be held on the actions of officials who do not comply with the plan of the Secretary. No definite location is stated as to where these hearings shall be held. It is easy to imagine the loss of time and money which interested local citizens would undergo if they were forced to travel hundreds of miles to state their case.

Obviously, few persons would be able to attend such hearings. Nonetheless, "cumulative evidence may be excluded in the discretion of the Secretary." In other words, the Secretary shall determine who is to be permitted to petition for a redress or grievances and who is not to be permitted to so petition. The first amendment to the Constitution is quite clear in that it states that Congress shall make no law prohibiting the right of the people to petition the "Government" for a redress of grievances. "Government" means all branches of the Federal Government. Yet, title III would permit the Secretary, at his discretion, to prohibit petition to the executive branch. In clear conscience, I could never support such an unfair and unconstitutional provision. I have no doubt that no Supreme Court in the history of the United States except the present Supreme Court would uphold the constitutionality of such a provision.

Once the hearings have been held on the actions of local officials who do not comply with the desegregation plan of the Secretary, title IV gives the Secretary the authority to issue his own "approved plan" to local officials and in the Federal Register and in local newspapers. If the approved plan of the Secretary in Washington, D.C., is still unacceptable to officials in their own local areas, the Secretary is directed by title V to request the Attorney General of the United States to institute civil action or other proceeding for preventive relief against responsible officials.

Thus, the full power of the Federal Government is to be directed against a local school district official or other local official who has committed a three-fold crime: (a) disagreeing with a plan for solving local problems which has been written by a Federal administrator in the Nation's Capital; (b) disagreeing with the desegregation experts who advise the Federal administrator; and, possibly even, (c) having to support his family and being unable to travel hundreds of miles to testify at a hearing, or, having traveled these many miles, being turned away because his testimony is regarded by the Federal administrator as "cumulative." Surely, no person who ardently supports the American freedoms as exemplified by the Bill of Rights could support such an unjust procedure.

Unfortunately, H.R. 3147 (and H.R. 3148) allows the Attorney General even more latitude in instituting civil actions and becoming the party plaintiff than is provided in title V. Titles VI and VII provide that the Attorney General can take civil action against persons who are alleged to have violated civil rights under the color of law. The Attorney General can take such action when a person or a group sends him a statement of alleged violations. Not only are persons who are financially unable to initiate civil action eligible to apply to the Attorney General for relief but also included are all persons who think that economic or physical harm might come to them if they initiate litigation themselves. This provision is an unfair condemnation of the motives of every local official in the United States. It is a general statement classifying all local laws as suspect and susceptible to condemnation by the Attorney General and by the district courts which title VII authorizes to be the arbiters of these civil actions. If I were not fearful that such a suggestion might actually prove favorable to certain parties, I might suggest that there is no need to continue the subterfuge provided in title VI but, rather, we might as well set up a scheme whereby every local law and every action taken by a local official would be reviewed by an agency of the Federal Government. In a minor way, title VI provides just such a scheme for Federal usurpation of State powers.

Title VI does not stop at allowing the Federal Government broad discretion in initiating civil action against local officials. Every person in the United States is directly included in its far-reaching provisions. Under title VI, the Attorney General can initiate a civil suit "(1) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder, and Federal, State, or local official from according any person or group of persons the right to the equal protection of the laws without regard to race, color, religion, or national origin, or (2) against any person or persons preventing or hindering, or threatening to prevent or hinder, or conspiring to prevent or hinder the execution of any court order protecting the right to the equal protection of the laws without regard to race, color, religion, or national origin." Notwithstanding the unacceptable general breadth of powers provided the Attorney General by this provision, the phrase "conspiracy to prevent or hinder" is enough to make this section entirely undesirable. A conspiracy is generally regarded as being an agreement between two or more persons to do an unlawful act. An overt act should be committed before a full-fledged conspiracy actually

exists. Under this section, the Attorney General can file suit when a person is about to engage in an attempt to threaten. When is a person about to engage in an attempt to threaten? An attempt is not direct action. Still the Attorney General, under this section, may proceed when a person is about to engage in an attempt to threaten.

It is a bit of irony that two of the "liberals" on the Supreme Court, Justices Black and Douglas, dissented in *Dennis v. U.S.* (1951) because Communists were convicted for conspiring to advocate. The supposed illegality of Communists being convicted for conspiring to advocate has long been a contention of many of the "professional liberals" who are so vocally supporting so-called civil rights legislation. Presumably, immunity from "conspiracy to advocate" or "conspiracy to prevent or hinder" applies only to Communists and not to patriotic Americans who are giving of their time and effort to do work which makes their communities better places in which to live and which is providing the United States with an ever-growing percentage of educated persons to make tomorrow a better time in which to live.

Obviously, these various provisions allowing the Attorney General powers of such enormous scope have as their intention the implementation of the 1954 Brown decision, even though the 1955 Brown decision spoke of district courts implementing the 1954 decision with deliberate speed. Even the current administration does not favor this shifting of responsibility for enforcing school integration from the judicial to the executive branch of Government. This is so even though the administration is overlooking no possibilities for making a political football out of the entire civil rights issue, and even though the Republican platform of 1956 supported such action and the administration supported the ill-fated part III of the Civil Rights Act of 1957. It is not known whether the brand new economy splurge of the administration has dictated that it would rather have the National Association for the Advancement of Colored People than the Federal Government finance suits covered by H.R. 3157 or whether the administration simply has realized that the operations of such a program are administratively impossible.

Even though the sections of title VI which have been described are of questionable constitutionality and are completely unacceptable to any person who is willing to view rationally the pros and cons of the Brown decision and who is willing to work continually in an attempt to find an orderly solution to the entire problem, section 604, the last section of title VI, may prove to be the most objectionable part of the entire title. Section 604 is so completely objectionable because its implications are so far-reaching as to defy imagination. Section 604 reads: "Whenever a suit is brought in any district court of the United States seeking relief from the deprivation of the right of equal protection of the laws because of race, color, religion, or national origin, the Attorney General is authorized to intervene in such action with all the rights of a party thereto and to seek compliance with any lawful order issued by such district court."

Section 604 implies that the Attorney General can "intervene," that is, can place the entire power of the Federal Government against a private citizen who is acting solely in his capacity as a private citizen and not under color of law. The 14th amendment is explicit: No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. Nothing in the 14th amendment refers to actions of one private individual against another private individual. The equal protection clause restricts only actions by States. State officials cannot wilfully permit a private person to deprive another person of his civil rights. But the Supreme Court has not accepted the view that the equal protection clause requires the States or the Federal Government to protect individuals against discrimination by private individuals. The famous civil rights cases allowed that Congress may protect persons only in those instances where a State or a local government supports a private citizen's denial of civil rights to another private citizen. Even the present Supreme Court has not seen fit to legislate a "new law of the land" by a judicial edict which would overrule almost 100 years of precedent.

Despite the qualifications relating to the equal protection clause, a private citizen is not without legal remedy from wrongs committed against him by another private person. Private citizens can initiate civil suits in alleged civil rights violations against civil rights violators. All governmental units, however, are limited to criminal prosecutions, with the single exception of cases involving

suffrage. Section 604 of title VI is clearly unconstitutional despite the fact that the Attorney General can "intervene" only after a suit is brought by a private citizen. The timing of action by the Federal Government is irrelevant because the unconstitutional principle remains the same.

I would like to conclude my comments on the so-called civil rights bills with a criticism of section 701 of title VII of H.R. 3147 and section 3 of H.R. 3148. These sections provide that the district courts shall have jurisdiction over enforcing other provisions of the proposed legislation even if a plaintiff's administrative remedies have not been exhausted. Frankly, I regard these sections as an insult to every judge, court, board, and agency of every State in the Union. The implication offered by these sections is that each of these authorized governmental units is incapable of objectively considering cases within their jurisdiction. A preemption of an entire field of State government activity occurs with one stroke of the pen of Congress. The 10th amendment is ignored and partially destroyed. This is unfair, unwise, and without precedent.

I certainly share the views of those who maintain that the passage of these bills would shake the very foundations of law enforcement by subjecting States to Federal supervision and making local police afraid to arrest people. These bills could very well lead to a national police force and seriously impair the morale and efficiency of State and local police. It would be an open invitation to any complainant to circumvent local governmental facilities by dealing directly with Federal authorities merely by claiming that some civil right is endangered or violated.

It is my carefully considered opinion that the Department of Justice and the Federal courts of this country now have ample authority under the Constitution and existing laws to protect the rights and privileges of all our citizens, no matter what their race, color, or creed may be. Further efforts to pyramid Federal authority in the field of civil rights will only serve to foment further strife and discord among our citizens. We do not need at this time to continue to incite race against race through retaliatory measures against the white citizens of the South.

STATEMENT OF HON. JOHN PATTERSON, GOVERNOR OF THE STATE OF ALABAMA

Mr. PATTERSON. Mr. Chairman and members of the committee, it is a privilege to be here, and I certainly appreciate the opportunity of testifying before this subcommittee.

May I be seated while I testify?

The CHAIRMAN. Yes, you may.

Mr. PATTERSON. I certainly understand the pressing business around the Capitol, Mr. Rogers, and I certainly will understand if you have to leave, and I won't think anything about it.

I have submitted a written statement, which is in the hands of the members of the committee, and I will make my remarks brief and will emphasize three or four of the major points of the written statement which I have presented to this committee.

The CHAIRMAN. I think it might be well to put your complete statement in the record at the inception of your remarks.

Mr. PATTERSON. I request that it be put in the record and the committee consider my written statement along with the remarks I make about it.

(The statement follows:)

STATEMENT OF HON. JOHN PATTERSON, GOVERNOR OF THE STATE OF ALABAMA, BEFORE THE CIVIL RIGHTS SUBCOMMITTEE OF THE HOUSE COMMITTEE ON THE JUDICIARY AT HEARINGS ON PROPOSED "CIVIL RIGHTS" BILLS, WEDNESDAY, APRIL 22, 1959

Gentlemen, my name is John Patterson. I am the Governor of the State of Alabama and I am presently serving a 4-year term which began January 19, 1959. Prior to that date I served as attorney general of Alabama from January

18, 1955, to January 19, 1959. As attorney general I was the chief law enforcement officer of the State. As attorney general, and now as Governor, it was and is presently my duty to see that the laws of the State are properly administered and enforced, and that law and order is maintained.

I appreciate the opportunity to testify before your committee and I wish to thank you for permitting me to do so. I am here to express opposition to H.R. 3147, H.R. 3148, H.R. 4457 and the numerous other bills setting forth, more or less, similar proposals as those embodied in the bills enumerated.

First, I would like to state that we enjoy good law enforcement in Alabama. We have a clean State. We are free of organized vice and crime. Our State and local officials are carrying out their duties in a legal and proper manner. The laws are being enforced diligently, equally, fairly, and impartially. Our citizens are law abiding and peaceful, and have a deep and abiding respect for law and order. Gangsters and hoodlums are not allowed to operate in the State of Alabama. Vice and corruption will be stamped out wherever it rears its head. The citizens of Alabama will not tolerate mob rule or mob violence in any form. We are making tremendous progress in Alabama in all fields and we are proud of it. I want to make it clear to you that I, as Governor of Alabama, guarantee that the laws will be enforced and that law and order will be maintained at all times. Our splendid record of law enforcement in Alabama speaks for itself, and if you gentlemen check you will find Alabama to be one of the cleanest States in the Nation. We in Alabama resent deeply any inference or accusation by anyone that we are not law abiding people.

The relationship between the members of the FBI and our State and local officials has always been excellent. The FBI agents have cooperated to the fullest with our local law enforcement agencies in the interest of crime detection and law enforcement. The agents of the FBI have been courteous and cooperative at all times, but I cannot say the same for the agents of the Civil Rights Commission. They made no effort to cooperate with us, but, on the contrary, seemed to go out of their way to harass and intimidate our officials. They obviously were seeking publicity instead of facts.

I am proud to say that Alabama has an excellent public school system. It is one of the best in the United States. Relying on decisions of the U.S. Supreme Court prior to 1954, that separate but equal school facilities were constitutional, we invested billions of dollars in a modern, up-to-date public school system for both races on a segregated basis. Had the schools not been segregated, it would have been impossible to have had a public school system at all. The Negro schools are as good as the white schools and in many localities are better. Our Negro schoolteachers are well qualified and receive a higher average pay than the white teachers. The Negro has made tremendous progress in Alabama in recent years. No one can dispute that. In fact, the Negro has made more progress in the South in a shorter length of time than any other minority race in the entire world. However, now the advancement of the Negro is being hindered by the actions of the Federal Government in the field of race relations. If the present activities of the Federal Government continue along the course it has taken in recent years in trying to force integration of the races upon the people of the South, the Negro will suffer irreparable injury and the splendid progress that he has been making might well come to a halt.

We have always enjoyed good race relations in Alabama. The white and Negro citizens have worked together in harmony over the years for the betterment of our State. However, due to the school segregation cases decided by the U.S. Supreme Court in 1954 and subsequent Federal court decisions striking down as unconstitutional the State laws and city ordinances requiring segregation of races in public transportation, golf courses, swimming pools, parks and beaches, and other action taken by the Federal Government to force integration of the races in public schools, race relations have deteriorated to a sad state. Trust has been replaced with distrust and understanding with suspicion. The relations between the races in Alabama today are worse than at any other time in my lifetime. The breach between the races is widening every day and there no longer is any common ground upon which the leaders of the races can meet and work out their difficulties.

This unhappy state of affairs has been brought about by the questionable decisions of the Federal courts and other actions of the Federal Government. The Federal Government obviously encourages the activities of race agitators and such organizations as the NAACP, who have done nothing for the Negro in the South, but, in fact, have seriously damaged his cause. Good race relations can be brought about only by local people working together in a spirit of cooperation

and good will without outside interference and agitation. The customs, mores, and traditions of the people cannot be swept away overnight by legislation, court decrees, and Federal troops. The instruments to force integration of the races upon us, which are embodied in these so-called civil rights bills pending now in Congress, will be as ineffectual as trying to sweep the ocean back with a broom. The people will not do that which their conscience tells them not to do. In the final analysis that which the overwhelming majority of the people want will be the law of the land.

No one can question the fact that the people of the South have dealt with the race problem with more patience and tolerance and good will than any other people on earth who have had a similar problem. The people of the South should be commended for the manner in which they have handled this problem. We should not be condemned by those who attempt to sit in judgment over us who know nothing of our problems and who have far more serious race problems in their own localities which they have not attempted to solve. I do not feel qualified to sit in judgment over the citizens of the State of New York or Illinois. They have far greater race problems, in my own opinion, than we do in Alabama. I feel that they are better qualified to handle their own affairs without interference by me.

If the Federal Government continues its present course of trying to force integration of the races in public schools in Alabama and in other States of the South, the relations between the races will grow worse and our public school system will be destroyed. The citizens of my State will not tolerate or support an integrated school system. If the Federal Government attempts to integrate our schools by force, we will have chaos, disorder, possible violence, and we will be forced to close our schools. If such occurs it will be a calamity. Our Nation will lose in the long run because our children will suffer the consequences. The people of Alabama will turn to private schools. In fact, moves are underway already to do so, and if such occurs the Negro will find himself in a very bad position. The overwhelming majority of the Negro citizens are opposed to the integration of the public schools in our State, and they realize better than anyone else that their schools will be destroyed if the Federal Government continues to press for integration. Most white citizens could afford a private education, but few Negroes could do so. In spite of this threat of destruction of our schools, we are going ahead in Alabama and embarking upon a new and progressive school program for the coming 4 years, trusting that our national leaders will see the error of their ways before it is too late, and not destroy our school system. However, I want to make this clear—the citizens of Alabama will scrap their public school system rather than submit to integration of the races.

The operation of public schools is purely a local function. The Federal Government has no authority to interfere with the State and local governments in the operation of their public schools. Our schools are financed chiefly by State and local funds, and no school can survive and carry out its proper function of giving the students the best education possible without the support and good will of the citizens in the community where the school is situated. The proposals set forth in H.R. 3147 and S. 810 constitute an unwarranted interference by the Federal Government in the domestic affairs of the States. Such interference can only lead to disorder, chaos, distrust, and disintegration of the school systems. This is just another example of the unlawful encroachment of the Federal Government into a field reserved exclusively to the States.

Even though these bills are aimed at the South today, every person in the United States should be worried and concerned, for there is no end to these types of force measures once the barrier is let down. The proponents of these bills are today trying to ram integration of the races down the throats of the Southern people, but tomorrow they will be trying to use the same devices to ram something else down the throats of citizens of other sections of the Nation. When the Federal Government arrogates unto itself powers such as are proposed in these bills and attempts to take away the right of the citizens to manage their own local schools, every individual in the Nation suffers and loses a little more of his freedom.

No school could possibly operate and benefit the students with such interference as is proposed in S. 810, H.R. 3147 and related bills. H.R. 3147 and S. 810 attempt to give the U.S. Attorney General power to force integration of the races in the public schools through the courts. If you pass this bill and the Attorney General attempts to carry out its provisions, public education in Alabama will come to an end. You will destroy our public schools. You must bear

the responsibility. The power which H.R. 3147 and S. 810 attempt to give the Secretary of Health, Education, and Welfare constitutes an unwarranted meddling in our domestic affairs. We do not want or need his help in operating our schools. The bill seems to be an attempt to pay us to integrate. We cannot be bought. There is not enough money in the world to get us to integrate our public schools. Surely the Federal Government does not intend to operate and finance our schools. It has no authority to do so, and in any case such a plan would result in utter failure.

The constitutionality of section VI of said bills which authorizes the U.S. Attorney General to institute legal action to vindicate rights of individuals or legal action against individuals to redress alleged wrongs is questionable. Similar provisions of the Civil Rights Act of 1957 were struck down as unconstitutional by a Federal court in Georgia last week. In any case, this attempt to give the Attorney General such broad and sweeping powers is contrary to our laws and borders on socialized law. This provision attempts to put the Attorney General in the position of practicing law on behalf of individuals and is another example of the encroachment of the Federal Government onto the rights of the citizens.

It is fundamental in our law that every individual who wishes to accuse his neighbor must stand up and make his accusations publicly. Every accused has a right to be confronted by his accuser. One reason for this is that a person is less likely to bring false or malicious charges against another if he must make his charges openly and in the eyes of the public; however, this bill is designed to make it possible for individuals to bring their charges and not disclose their identity and not have to account to the community for their conduct. Such a law would not be in the best interest of the people of this Nation and is contrary to the principles of American jurisprudence. It smells of a secret police force where the citizens inform on each other to the Government and where the citizen accused may never know who his accusers are nor even what he has been accused of. This portion of the act comes very close to creating a Gestapo system.

I am opposed to the passage of S. 810, H.R. 3147, H.R. 3148, H.R. 4457, S. 955 and other similar and related bills, and I urge this committee not to give these measures favorable consideration.

I am absolutely opposed to the extension of the life of the Civil Rights Commission created under the Civil Rights Act of 1957 or the establishment of any new Civil Rights Commissions. S. 690, S. 435 and H.R. 4457 provide for the extension of the life of the Civil Rights Commission. The recent actions of the Civil Rights Commission seriously damaged race relations in the South and further injured the already strained relations between the Federal and State governments. The Commission failed to do anything constructive, but, on the contrary, further widened the breach between the races. The action of the Commission in Montgomery, Ala., was reprehensible. It harassed and intimidated our State and local officials. It attempted to sit in judgment over the manner in which our officials conducted their offices. It interfered with the operation of our courts and our judicial officers. The action of the Commission have made it difficult to get people to want to serve in public office. In fact, due to the actions of the Commission we do not have a board of registrars in one county and are finding it difficult to get responsible people to want to serve on this board and on boards in other counties.

The Commission attempted to arrogate unto itself powers which it did not and could not constitutionally possess. It claimed to be a "roving grand jury" with the powers of a common law grand jury—a position absolutely untenable. We all know that the grand juries came from the English common law and belonged to the people. Historically the grand jury has served two purposes—first, to investigate and indict for crimes, and second, to protect the people from tyrannical actions of the Government. The Commission attempted to go on "fishing expeditions" in the records of judicial officers, and it subpoenaed our State officials to hearings in Montgomery, Ala., and put them on the witness stand under spotlights and before batteries of nationwide television cameras. No room or seats was provided in the hearing room for counsel of the public officials and the Commission would not even allow attorneys for the officials to make objections. In effect, the State officials were placed on trial and publicly harassed and intimidated. The Commission attempted to go far beyond its factfinding powers, and the hearings were conducted in a circuslike arena, and no semblance of due process was accorded our State officials.

4. I want to make it clear that our officials have done nothing wrong and have carried out their duties in a legal and proper manner. I know this to be a fact. They have treated both white and Negro equally, fairly, and impartially. They have nothing to hide. They resented the unwarranted and unlawful actions of the Civil Rights Commission. They felt as I felt, that we could not as citizens of this country sworn to uphold the Constitution and the laws of this Nation, stand idly by and allow the Civil Rights Commission to trample on our rights and attempt to exercise power not granted to it by the Constitution or any law.

I wish to point out that members of the board of registrars in Alabama are judicial officers and constitute a part of the judicial branch of the government. The attempt on the part of the Civil Rights Commission, an agency of the executive branch of the Government, to seize the voting registration records and interfere with these judicial officers was an unconstitutional encroachment by the executive branch on the judicial branch. Under the laws of Alabama, as in most States, if a person is refused the right to register to vote by the board of registrars upon proper application, he can appeal to the circuit or district court, where he will receive a trial. In Alabama he can appeal within 30 days and is entitled to a jury trial. If he loses in circuit court he can appeal to the State supreme court. If he loses there, he can appeal to the U.S. Supreme Court. In all cases the rights of the individual are protected, and through the courts, and that is as it should be. I know of only one such case during the last 5 years in the whole State of Alabama where a person has appealed the decision of a board of registrars and that was a white person. The U.S. Supreme Court has held that class actions cannot be brought to vindicate voting rights and that each individual case must stand on its own facts.

In view of these decisions, the purpose of the civil rights legislation becomes obvious. It is to use the injunctive device to force the boards of registrars to register large groups of Negroes whether they are qualified or not. This use of the injunction to force registration of Negroes is designed to get around the prohibition of class actions in voting cases. Congress and the Federal Government is trying to do in this manner what the courts have held cannot be done. This action on the part of the Federal Government in interfering with our registration machinery is nothing more than an indirect attempt to force integration of the races upon us. In bringing actions to force county boards of registrars to place the names of Negroes on the voting lists, the U.S. Attorney General is attempting to substitute his judgment for that of our State officials charged with the duty of passing on the registration of voters.

If the Federal Government continues its present course, a breakdown in our whole election machinery might result. The actions of the Federal Government in this field are only creating a feeling of bitterness and hostility between the State and Federal Governments. I can see no useful purpose to be served by the continuance of the Civil Rights Commission, and I strongly urge the committee not to give favorable consideration to the extension of the life of the Commission.

I am strongly opposed to the passage of the pending measure designed to prohibit any opposition to Federal court decrees pertaining to school integration. Adequate laws are now on the books for courts to enforce their decrees. It is obvious that these measures are aimed at ramming integration down our throats and gagging us so that we go to jail if we raise our voices in protest. I doubt the constitutionality of these bills, and if anyone thinks that such measures would bring about integration of the schools of Alabama, they are sadly mistaken. It seems strange to me that anyone would advocate such a measure and not include prohibitions against obstruction of all types of court decrees, including labor decrees. The fact that these measures are restricted just to integration decrees shows that it is punitive legislation, political in nature, malicious and aimed at destroying the customs and traditions of the people of the South. The manner in which the bills are drawn shows that it is just another crude attempt to use the South as a whipping post for political reasons.

Alabama, as well as all States, has strong laws punishing persons convicted of willful destruction of public and private property. Any person apprehended for committing such an offense in Alabama will be prosecuted and punished to the full extent of the law. There is no necessity for additional Federal laws in this area. It should always be remembered that law enforcement is a local problem and is largely a matter of local responsibility. We are carrying out our duty in reference to enforcing the law and we do not need any more Federal interference.

Under Alabama law any person who willfully sets off or explodes dynamite or other explosives in, under, or near any public or private building which is inhabited or occupied by another person shall on conviction be punished at the discretion of the jury by death or imprisonment in the penitentiary for not less than 10 years (title 14, sec. 123, Code of Alabama, 1940). If the public or private building is not occupied by another person, upon conviction the accused would be subject to imprisonment in the penitentiary for not less than 2 years nor more than 10 years. These laws are adequate to protect the lives and property of the citizens in this State, and I assure you they will be strictly enforced. Title 18, section 1073, U.S.C.A., as amended April 6, 1956, chapter 177, section 1, 70 Stat. 100, provides as follows:

"1073. Flight to avoid prosecution or giving testimony. Whoever moves or travels in interstate or foreign commerce with intent either (1) to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which he flees, for murder, kidnaping, burglary, robbery, mayhem, rape, assault with a dangerous weapon, arson punishable as a felony, or extortion accompanied by threats of violence, or attempts to commit any of the foregoing offenses as they are defined either at common law or by the laws of the place from which the fugitive flees, or (2) to avoid giving testimony in any criminal proceedings in such place in which the commission of an offense punishable by imprisonment in a penitentiary is charged, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

"Violations of this section may be prosecuted only in the Federal judicial district in which the original crime was alleged to have been committed or in which the person was held in custody or confinement. As amended April 6, 1956, chapter 177, S. 1, 70 Stat. 100."

This statute has proven very helpful to us in apprehending felons who commit crimes in one State and flee to another to avoid prosecution. This statute enables the FBI to enter a case when the felon has fled from the State where the crime was committed and assist in apprehending the felon who is usually returned to the State where the crime was committed for prosecution.

There is pending at the present time before the Committee on the Judiciary in the Senate, bill S. 124, which is designed to amend title 18, section 1073, *supra*, so as to include within said section crimes involving the willful destruction or damaging of any building or structure. I do not know what the attitude of the U.S. Department of Justice will be toward this amendment; however, I feel that S. 124 should be given favorable consideration. Such an amendment would be helpful to us in bringing persons to trial in the State courts who might unlawfully destroy or damage public or private buildings and flee from the State to avoid prosecution. Such an amendment will enable the FBI to assist us in tracking down the guilty parties and returning them to the State for prosecution.

In conclusion, I wish to state that I do not think that the aforementioned so-called civil rights bills are in the interest of the citizens of this Nation. They will certainly do nothing to better the lot of the Negro citizens in the South. They are not in the interest of national unity or solidarity. They are not in the interest of eliminating crime. They will bring further chaos and disorder and possible violence to the South. They will destroy our public school system.

The brief history of the operations of the Civil Rights Commission in the South has proven that it has utterly failed.

I urge that these so-called civil rights measures be given unfavorable consideration by your committee.

In 1957 I testified before the House Judiciary Committee in opposition to the so-called civil rights bills pending at that time and many of them were similar to the bills before us today, and I stated at that time:

"It is my opinion that if these so-called civil rights bills are passed and the Attorney General of the United States proceeds to enforce them in the terms that they are written he will meet with failure. There will be considerable discord and unrest. We will have a reluctance on the part of State, municipal, and county officials to want to serve in office if all of their actions are reviewed by the Attorney General of the United States and by the Federal district courts. I doubt the wisdom of giving the Attorney General of the United States and the district courts this tremendous supervisory power over our State and county officials."

What I had to say then in reference to the creation of a Civil Rights Commission came to pass. I reiterate and reaffirm that statement again today. I do not claim to be a prophet; however, I do feel that I know the feelings of the overwhelming majority of the people of my State, and I have tried today to

convey to you their feelings and the facts as I believe them to exist. I believe that it is my duty to speak to you truthfully and frankly, and that I have done to the best of my ability.

Thank you.

MR. PATTERSON. I am here to appear in opposition to H.R. 3147, H.R. 3148, H.R. 4457, and S. 955, which I understand is being considered by this committee as a possible substitute for one of the other bills pending before the committee.

First, I would like to say that as attorney general for 4 years, I was the chief law enforcement officer of the State of Alabama, and then as attorney general, and now as Governor, it was then and is now my duty to enforce the laws of the State, administer the laws, and maintain law and order, as you gentlemen know.

I feel like I am familiar with the feelings of the people of Alabama, and I feel like I have some knowledge of the situation as it actually exists there today, and I want to try to convey to you the feelings of the people of my State and to tell you about some of the facts concerning this race matter which exists in Alabama today.

We have good law enforcement in the State of Alabama. We have a clean State. We are free of organized vice and crime, and I think if you investigate in the State of Alabama, you will find that it is one of the cleanest States in the United States. I want to assure this committee that the people of the State of Alabama are peaceful people, they are law abiding, they have abiding respect for law and order. We are not going to tolerate in the State of Alabama anybody taking the law into his own hands. We have a peaceful, law-abiding State, and I personally resent any inference by anybody that our people are not law abiding. We have good law enforcement in Alabama and I certainly want to make that clear.

The relationship between the FBI and the law enforcement officials of the State of Alabama has always been good. The FBI has been cooperative and helpful at all times and courteous, but I can't say the same thing about the agents of the Civil Rights Commission which operated in the State of Alabama recently. They were not cooperative. They seemed to go out of their way to harass and intimidate our State officials. They obviously were seeking publicity instead of facts.

Now, about the schools in Alabama. We have a good school system in the State. We have a modern, up-to-date school system. We compare favorably with the other States in this Nation, and, relying upon the decisions of the U.S. Supreme Court that equal but segregated schools were constitutional prior to 1954, we invested billions of dollars in a modern up-to-date school system. Had the schools not been segregated we probably would not have been able to have had a public education system at all. The Negro schools in Alabama are as good as white schools, and in many cases they are much better.

The Negro teachers are well qualified. The average pay of the Negro teacher in Alabama is above that of the white teachers. The Negro has made tremendous progress in the State of Alabama. No one can deny that. I think the Negro in the South has made more progress in a shorter length of time than any other minority race in the whole world. I think that the people of the South are to be commended for the manner in which they have dealt with this problem over the years, and I certainly don't think that anyone should sit in judgment or attempt to sit in judgment over the people of the South who are not familiar

with our problem, and who have race problems far worse than ours back where they live.

I certainly am aware of the tremendous race problems that exist in States like Illinois and New York. I think that the race problems in those States are far greater in many cases than they are in our own States, and I don't attempt to sit in judgment over the affairs of those States and the manner in which they cope with their problems, and I certainly think that the States ought to be left alone in this particular field to work out their own problems and their own difficulties. In fact, I believe that that is the only way that they will ever be worked out and solved.

The race relations in Alabama have always been good. The whites and the Negroes have worked together in harmony over the years for the improvement and betterment of our State, but recently, particularly since the school desegregation cases in 1954 and recent actions of the Federal Government to force integration in the public schools and other public facilities, race relations in Alabama have deteriorated. The relations between the races today in Alabama are worse than at any time in my lifetime. The breach between the races is widening every day, and it is being brought about by the actions of the Federal Government in this particular field. There is no longer any common ground between the races in my State whereby the leaders of the races can get together and work out their difficulties and problems, and this terrible situation has been brought about by the interference of the Federal Government into this matter in the States.

If the Federal Government continues its present course of trying to enforce integration of races in the public schools in Alabama, our relations between the races will grow worse and our public school system will be destroyed. The citizens of my State will not tolerate or support an integrated public school system. If the Federal Government attempts to force integration by force, there will be chaos, disorder, possible violence, and we will be forced to shut down and close our public schools, which would be a terrible thing.

The CHAIRMAN. You said that yours is a State of law and order.

Mr. PATTERSON. We certainly will not tolerate mob violence in the State of Alabama in any form, and certainly won't, but I hasten to add that you could not operate a public school where you had to maintain police constantly or troops to maintain law and order. No one could learn anything under those circumstances.

The CHAIRMAN. Would you close your public school then under those circumstances?

Mr. PATTERSON. We would be forced to close our public schools, and we would close them.

The CHAIRMAN. If you close your public schools, won't that act to the detriment of your State economically and spiritually?

Mr. PATTERSON. There is no question about it. That is correct.

The CHAIRMAN. Are you willing to suffer that disadvantage?

Mr. PATTERSON. In my opinion, the people of the State of Alabama will sacrifice and scrap their public school system before they will integrate their public schools.

The CHAIRMAN. Then you would have, I suppose, private schools to which pupils would go who would get subventions from the State treasury in the form of scholarships or tuition fees; is that right?

Mr. PATTERSON. There are present plans underway to provide for private schools and to provide for private grants from the State. I think that if the public schools were to close and the people of the State went into private education that the Negro citizen will suffer worst of all.

The CHAIRMAN. Would the State grant subventions to the parents of the Negro children to enable them to go to private segregated schools?

Mr. PATTERSON. I think, of course, any law of that type in order to be administered fairly and constitutionally the State would have to make equal grants to students, to parents of students, regardless of race or color.

The CHAIRMAN. Then you would have the situation where you would have private schools, where education could be accorded to Negro children and to white children at the expense of the Government of the State of Alabama?

Mr. PATTERSON. That is correct.

The CHAIRMAN. Won't that be the same as far as the Supreme Court decision is concerned as is the situation now?

Mr. PATTERSON. What you will have is private segregated schools.

The CHAIRMAN. Is there any difference in principle between private segregated schools supported by the State and public segregated schools supported by the State?

Mr. PATTERSON. I think there is clearly a distinction. However, the Court has not passed upon that question yet, and I don't know what they will say about it.

The CHAIRMAN. You think there is a difference?

Mr. PATTERSON. I think so. Most of the States, including Alabama, make grants now to private institutions. We grant nearly a half million dollars a year to Tuskegee Institute, for instance, from the general funds of the State of Alabama.

The CHAIRMAN. Wouldn't the principle of separate but equal apply then to the private schools supported by the State? Wouldn't that be running afoul of the Brown decision, the desegregation decision?

Mr. PATTERSON. I don't think that the grants by the State of tuition or money to the parents of students, if it is done on an equal basis, without any consideration to race or color, and everybody treated equally, I don't think that those grants, if the parents use them to send their children to private segregated schools, would amount to State action in actually running the schools. I don't think so.

The CHAIRMAN. The monies would have to be used by the parents to send the children to school.

Mr. PATTERSON. I suppose that any sort of law of that sort, to be properly administered, you would have to see that they sent the children to school, yes, sir.

The CHAIRMAN. And if the parents took the money and didn't send the children to school, they would suffer, I presume.

Mr. PATTERSON. I suppose so.

The CHAIRMAN. I can't see then the difference between the subventions granted by the States for the operation of private schools segregated and the operation of public schools operated by the States by State subvention. I can't see the difference then.

Mr. PATTERSON. The State of Alabama is not required by its constitution to provide a public education any more for the students in the State.

The CHAIRMAN. You did have a provision in your constitution which did provide for elementary education for all children on a public school basis, did you not?

Mr. PATTERSON. The people voted to repeal that because the people are determined if they cannot have segregated public schools they will have no schools at all.

Mr. McCULLOCH. Mr. Chairman, along the line of questioning that you have been following, if we do not have a precedent in the grants to GI's under the GI bill of rights. The money was provided for tuition and other expenses for these young men and young women, and the money was used wherever they chose to use it so long as they went to school, and so far as I know there is no test of legality or constitutionality of those grants by the Federal Government.

The CHAIRMAN. That was in the nature of compensation for services rendered to the Government in time of peril. I quite agree with the distinguished member that there was no test in that regard.

Mr. ROGERS. Mr. Chairman, may I ask the Governor this question: Do I understand the Supreme Court of the United States did pass upon the selection and placement system of assigning pupils in the State of Alabama?

Mr. PATTERSON. That is correct.

Mr. ROGERS. And the Supreme Court of the United States held that constitutional?

Mr. PATTERSON. It held it constitutional on its face as written.

Mr. ROGERS. And if the selection is made on the basis regardless of race, color, or creed, do you feel that the Supreme Court will adhere to its former decision that on the face of it it is constitutional?

Mr. PATTERSON. I think the Supreme Court of the United States as presently constituted, if the school placement law, which they have held constitutional on its face, were administered in such a manner as to deny the right of a person to go to a particular school on the grounds of race or color, then they would probably hold that the administration of it was unconstitutional. That case only dealt with the act as it appeared on its face as written.

The CHAIRMAN. Isn't it true, Governor, that the Alabama placement case that a three-judge court held it constitutional, but they didn't pass upon the operation of the statute, they didn't pass on what happens under the statute; they passed upon the question whether the act itself, and in and by itself, was constitutional.

Mr. PATTERSON. That is correct. There were no actual attempts to get into schools involved in the case. It was a question purely of constitutionality on the face of the statute as written. The point I am trying to make is the present feeling of people of the State of Alabama that they will resist any attempt to integrate their public schools, and would swing to private schools if the Federal Government pressed the issue by force, and if it is done in that manner, then we will see the destruction of our school system.

Now, we are going ahead, though, in Alabama, despite this cloud that hangs over us, with a progressive education program during my administration. We right now have in the planning stages a \$75

million bond issue for construction of schools, and that is all types of schools, white and colored. We are planning now to recommend to the legislature less than 2 weeks away a substantial increase in the appropriations to schools throughout the State. We are thinking in terms at the present time of an additional appropriation of \$12 million which will give the State the largest appropriation for education that it has ever had. We are going ahead with our school program in spite of this, but the people will scrap the program and scrap their public school system if it is forced upon them. I want to make that clear and get that across to the committee. That is the feeling of the people in my State at the present time.

In reference to H.R. 3147, particularly, I don't see how any school would operate and carry out its functions if the Attorney General of the United States and the Secretary of Health, Education, and Welfare exercises the powers granted to them in that bill. It constitutes an interference and meddling in the internal operation of the school system which we consider to be a domestic matter which concerns the State.

No school can carry on and perform its proper functions unless it has the support and good will of the citizens in the local community where the school is, and I think that the interference as contemplated by this statute would disrupt the operation of our school system and destroy it.

It appears to me that this bill, H.R. 3147, might be an attempt to pay us to integrate our schools.

MR. ROGERS. I was going to suggest, Governor, if H.R. 3147 is passed, the Secretary of Health, Education, and Welfare is given all of the authority to see that the people are educated, and if Congress gave them enough money wouldn't they actually come down and establish schools and run them; isn't that the object and purpose, to see that there are schools?

MR. PATTERSON. Certainly the Federal Government does not intend to operate and finance the schools for every locality in the South, surely not, and I doubt seriously whether they have the power to do so, and if they do in Alabama, if they attempt that in Alabama, then the Federal Government will be operating and financing colored schools because the whites will go to private schools. That is the way I see it.

MR. ROGERS. The Federal Government then would be under this bill, if Congress gave them enough money, would be financing all of the colored schools of the South, because the whites would not go to them. Is that your theory?

MR. PATTERSON. In most of the South that is true, and in the whole State of Alabama I am certain that that is true, and it would take a lot more money than is appropriated in that bill to do the job, I assure you.

MR. ROGERS. You don't think the authorization is big enough?

MR. PATTERSON. As far as Alabama is concerned, there is not enough money in the whole world, in my opinion, to pay us to integrate our schools.

Now, section 6 of the act is a section which I doubt the constitutionality of.

MR. ANDREWS. Will the gentleman yield for a minute. Mr. Chairman, may I make a statement?

The CHAIRMAN. Certainly.

Mr. ANDREWS. I want to impress upon you gentlemen how serious this situation is. I want to say that I think every member of our delegation concurs wholeheartedly in that statement that the Governor just made. There will be no integrated schools in Alabama. There may be no school system, but I think each member of our delegation and our Governor can tell you with all sincerity that our people will not integrate their schools, period.

Thank you, Governor, for yielding.

Mr. PATTERSON. Section 6 attempts to give the U.S. Attorney General power to go into Federal court to vindicate the rights of the individual.

The CHAIRMAN. May I ask just one question?

Mr. PATTERSON. Yes.

The CHAIRMAN. Do you think then if the schools are just closed, the public schools to avoid integration, that that does not affect the rest of the country? Do you think it does or does not affect the rest of the country?

Mr. ANDREWS. Of course, it affects the whole country. It affects Alabama very seriously. I remember, Mr. Chairman, a statement you quoted to me on the floor of the House over here one day when I asked you a certain question about a bill that I had introduced that was pending before this committee. I asked you if we would ever get a hearing on it, if you promised me a hearing or anything, and you quoted an old Russian or Chinese proverb.

The CHAIRMAN. It wasn't Russian. It was Turkish.

Mr. ANDREWS. That is the third time you have changed, I think.

The CHAIRMAN. You don't roll up your pants until you come to the river.

Mr. PATTERSON. What was it?

Mr. ANDREWS. You won't roll up your pants until you come to the river.

We will find ways and means of educating our people not in any shape, form, or fashion in an integrated school, period. Thank you, Governor.

Mr. PATTERSON. If the States wanted a private education, the Negro citizen would be hurt most because most of the white citizens could find some way of financing a private education, although many of them would not be able to do so, but the overwhelming number, the majority of the Negro citizens would not be able to finance a private education unless there was some system whereby the State made grants to them.

The CHAIRMAN. Of course, there is such a thing as Federal grants to the States for education purposes. We have that now, do we not, in limited form?

Mr. PATTERSON. It is limited. About 85 percent of the cost of education is borne locally.

The CHAIRMAN. So in that sense the Federal Government does in a way, of course, with the State's consent, intervene as to the operation of the State's educational system, particularly as to the higher forms of education; isn't that true, Governor?

Mr. PATTERSON. Yes, that is right. We certainly realize the responsibility for providing an education for our Negro citizens. I

want to make that clear, and I think that the record will bear me out, that our Negro schools are as good as the white schools in the State, and certainly I think the overwhelming majority of the Negro citizens of our State are opposed to the integration of the schools, and if there was some way to poll them I am certain that would be true.

Section 6 of this act which attempts to give the Attorney General the power to go into court to vindicate rights of individuals and to prevent individuals from taking certain unlawful, alleged to be unlawful action against other individuals, in my opinion is very questionable. It seems that if the Attorney General determines that, if the individual himself brings the action, he might be subject to hostile acts from the public or from the community, and he might lose his job or might run into economic pressure that might be brought to bear on him. Then the Attorney General is authorized to bring the suit for him and keep the name of the person involved anonymous.

Now, it seems to me that this bill, that this part of the bill, is an attempt to put the Attorney General of the United States into the business of practicing law for individuals, and I certainly don't think that that is a smart thing, and I think it is contrary to our American law. It seems to me to border on socialized law, because this field of civil rights is broad and voluminous, and if the Attorney General is going to represent all of the individuals who claim that their civil rights have been violated, then he is going to have to really do a lot of law practice in the private law field. I certainly think that is unwise.

Now, I think there is something fundamental in our system, and that is this: that any person who accuses another of violating the law must do so publicly. He must stand up and look the public in the eye and make his accusations. The reason for that is that a person is less inclined to want to bring malicious charges or false charges if he knows he has to face the community with them, and I think that is the reason for that. The accused is entitled to know who his accuser is and to be confronted by his accusers. This bill, it seems to me, creates a sort of a secret police force where the citizen can squeal on his neighbor to the Government and his name will never be involved in it. He will be kept out of it. This thing seems to border on the old Gestapo system with people informing on each other to the government and the accused never knows who his accuser is or even what he is being accused of, and I just don't like section 6 of this act for those reasons.

I am opposed to H.R. 3147, 3148, 4457, and S. 955, and I would like to urge this committee not to give favorable consideration to those measures.

Now, another point that I would like to make is that I am opposed to the extension of the life of the Civil Rights Commission. In my opinion the Civil Rights Commission has utterly failed to accomplish anything constructive. They came down to Montgomery, Ala., and they harassed and intimidated our public officials, they haled them before a hearing in Montgomery, where they put them on the witness stand on the threat of going to jail if they didn't answer the subpoena. They put batteries of spotlights on them before whole batteries of nationwide television cameras.

They didn't provide room in the hearing room for the counsel or for the witness to sit. They would not allow the defense counsel to make

any objections, and I think the manner in which they conducted their hearings was reprehensive.

The CHAIRMAN. I agree with you. I am glad you brought that out in your testimony, because conduct of that sort is not only unbecoming, but certainly is not within the four squares of the act which we passed and set them up. That is reprehensible if they did anything like that. Of course, they have the power of subpoena and the power of subpoena should always be sparingly given, and I presume under that power of subpoena they may have abused their privileges, and if they do they are subject to criticism.

Mr. PATTERSON. Certainly the Supreme Court has reversed several cases where the witnesses have been subjected to the kind of treatment that they were subject to in the hearing in Montgomery by the Civil Rights Commission. This business of getting on the witness stand with batteries of lights beating down on you and a crowd of people and no room in the courtroom for your counsel to sit and things of that sort, to me it is just outrageous, and this conduct on the part of the Commission created an aura of hostility in the area. It put the local officials in a frame of mind where they didn't want to cooperate any more. They felt like they had been mistreated and certainly they did nothing to help the already strained relations between the State and Federal Government.

Mr. McCULLOCH. Mr. Chairman, I want to join with you, and with the Governor, in condemning that sort of action. As a matter of fact, Governor Patterson, I have that matter underscored in your written statement, and in addition to the statements for the record there will be other inquiries into that kind of procedure.

The CHAIRMAN. I want to say, Governor, I am going to instruct counsel to send a copy of this testimony right at this juncture to the Civil Rights Commission and ask that they give us their reaction; that they give us their defense, if they have any, on this charge, and if they have no defense, then I will see to it that some statement is reflected in the record as to what we think of conduct of that sort, and that conduct is very seriously impinging upon that which we think is right and honorable and decent and lawful.

Mr. PATTERSON. I think they might have gotten a lot more cooperation in Alabama had they conducted themselves in a little bit different manner than they did.

I would like to say this now, that the public officials in Alabama, particularly the members of the board of registrars, have absolutely nothing to hide. I know of my own personal knowledge that the ones who were subjected to the investigation by the Civil Rights Commission had performed their duties in a legal and fair and impartial manner. We felt like that.

The CHAIRMAN. You are certain that they gave cooperation?

Mr. PATTERSON. We refused in a number of cases to turn over the records of the boards of registrars to the Civil Rights Commission. We did so on legal grounds, which I want to explain.

My criticism of the Civil Rights Commission was as to the conduct of their hearing, where they subpoenaed the public officials of the State into a witness room, where there was hardly any standing room, did not provide chairs or seats for lawyers defending these witnesses, would not allow these lawyers to voice an objection to anything, had rows and rows of big spotlights bearing down on them on the witness stand.

Mr. McCULLOCH. Might I interrupt there, Governor? Did that go on while they were being interrogated by officials of the Civil Rights Commission? The spotlights were on?

Mr. PATTERSON. That is correct, yes, sir. In fact, during examination of one witness I recall one of the lights seemed to get out of place, and a man came in and he put a stepladder between the witness and his counsel and adjusted the light while the examination continued.

The CHAIRMAN. I think it is wrong to have any kind of television focused on witnesses, particularly under such trying conditions. We don't permit it in this committee, and I don't think you should permit it in any of these public hearings. If the State of Alabama and its officials offered no obstructions and were cooperative, then I repeat that the action of the Civil Rights Commission was reprehensible.

Mr. PATTERSON. Our objections to turning over the records to the Civil Rights Commission of the boards of registrars was this: First, the boards of registrars under our constitution are judicial officers. Their decisions in reference to who qualifies and who doesn't qualify to vote are judicial determinations, subject to review in the courts.

The CHAIRMAN. Did you turn over the records?

Mr. PATTERSON. At first we objected and refused to. There was a good bit of wrangling in the courts about it, and finally we reached an agreement in the court in which we allowed them to see the records and make copies.

Mr. McCULLOCH. Mr. Chairman, I would like to interrupt there. Did you proceed in accordance with legal procedure in insisting upon your rights, and then when the question was determined in accordance with law and precedent, did you conform with the orders issued thereafter or at that time?

Mr. PATTERSON. Of course, there is no pleasant way to say no when the agent of the Civil Rights Commission arrived at the office of the board of registrars and wanted the records. They politely were told they couldn't see them. Then they proceeded to subpoena the records and members of the boards to the hearing in Montgomery, and, of course, there the wrangle began and eventually wound up in court.

Mr. McCULLOCH. And their right to do so was finally determined in accordance with law?

Mr. PATTERSON. That is correct.

Mr. McCULLOCH. And your officials conformed and abided by the final orders?

Mr. PATTERSON. The officials that I had anything to do with representing did. That is correct.

The CHAIRMAN. Wasn't Judge Wallace held in contempt for failure to turn over those records in the lower court?

Mr. PATTERSON. The decision of the Federal judge was in favor of Judge Wallace, the final decision in that case. That was finally dismissed.

The CHAIRMAN. There was a contempt citation, as I recall, against Judge Wallace.

Mr. PATTERSON. There was an order to show cause.

The CHAIRMAN. For his failure to turn over the records, and then he was subsequently cleared by the Federal judge, I think it was Judge Johnson.

Mr. PATTERSON. That is correct. When the order to show cause was issued, he turned the records over to the grand jury of his county, and then when the case came up for hearing on the show cause order Judge Johnson dismissed it. I believe that is correct.

The CHAIRMAN. Well, in other words, he refused to turn over the records.

Mr. PATTERSON. To the Civil Rights Commission. He turned them over to the grand jury, and the grand jury turned them over to the Civil Rights Commission.

The CHAIRMAN. So that the Civil Rights Commission ultimately got the records by way of the grand jury?

Mr. PATTERSON. That is right.

The CHAIRMAN. And I take it the contempt was that instead of giving the records directly to the Civil Rights Commission he sent them to the grand jury?

Mr. PATTERSON. That is right.

The CHAIRMAN. Well, do you think that that was proper?

Mr. PATTERSON. Of course, the matter decided in the Federal district court has not been appealed, but we take the position that a circuit or district judge who is certainly a judicial officer, that a member of the board of registrars who is a judicial officer under our constitution, has protection as such judicial officer from being interrogated as to why he made certain judicial decisions by an executive arm of the Government. That is our legal position.

Mr. McCULLOCH. Mr. Chairman, of course, we would not want to question the right of any public official to question the authority of a commission or other arm of the Federal Government to do something if they conscientiously believe they did not have that right. That is what the courts are for, isn't it?

Mr. PATTERSON. The Civil Rights Commission refused to divulge to us who had made accusations that certain citizens had been deprived of their civil rights. They wanted to go into the records of these boards of registrars and go on fishing expeditions, and being judicial officers they have some protection from the executive branch, which is the Civil Rights Commission as an arm of the executive branch of the Government, and the rights of individuals are also protected. If the Board of Registrars in Alabama refuses to register a man who applies, he has a right to appeal to the nearest circuit court or district court within 30 days and he gets a trial and a jury trial, if he wants it. If it is held against him there, he can appeal to the Alabama Supreme Court, and his case is a preferred case, and if he loses in the Alabama Supreme Court, he can appeal to the Supreme Court of the United States, and the Federal courts have held that you cannot bring class actions to vindicate voting rights, that every case must stand on its own facts.

Mr. McCULLOCH. May I interrupt you there? Do you maintain the records and the factual evidence upon which the decisions of your voting registrars are made?

Mr. PATTERSON. The records consist of a questionnaire, a sworn questionnaire, that is submitted to the prospective voter as he comes in by the board. If he passes the examination, and they have a right also to orally examine him on other matters, if they see fit, if he passes the examination, they certify to the probate judge that he has qualified and his name goes on the voters' list in the probate judge's office,

and the questionnaire goes on file in the probate judge's office. If he fails, there is no law requiring that the records of the failures be retained.

Mr. McCULLOCH. Are they retained, as a matter of fact?

Mr. PATTERSON. Some boards do and some don't.

Mr. McCULLOCH. Is there any reason why they should not be retained for a reasonable length of time?

Mr. PATTERSON. Well, of course, the reasonable length of time would be 30 days. That is the deadline for appealing. After 30 days there is no necessity for keeping them.

Mr. McCULLOCH. All right, I will use that period. Is there any reason why these officials should not be required to keep those records for a minimum period of 30 days?

Mr. PATTERSON. No. They should keep them for 30 days, and we have taken the position that they should keep them for 30 days because that is the time for appealing, and they need to keep these records for their own defense, you see.

Mr. McCULLOCH. If the appeal were filed within the 30 days, of course, that would stay any prospective discussion of the evidence?

Mr. PATTERSON. And I might add that after all of the wrangle we had down there, which didn't help the relations between the State and Federal Government, they found very little to travel on and they have not caused a single person to be put on the voters' list themselves.

Skiping on over, I would like to comment finally about one other thing, and that is the so-called civil rights bill which are aimed at making it a Federal offense to plant explosives in houses and churches and businesses and so forth.

The CHAIRMAN. That is not in H.R. 3147.

Mr. PATTERSON. No, sir, it is not. I would like to comment on that briefly and make one suggestion. We have in Alabama, I think, adequate criminal laws to protect our citizens and their property as far as the unlawful use of explosives is concerned. If you put an explosive in or under or near a house that is inhabited or occupied, it carries a death penalty, or a minimum of 10 years in Alabama at the discretion of the jury. If it is a house that is unoccupied or uninhabited, it carries a sentence from 2 to 10 years, and that is a pretty stiff penalty, and those laws, I think, are adequate.

Now, there is a Federal statute, which is title 18, section 1073, which makes it a Federal offense to commit certain enumerated felonies and flee the State to avoid prosecution, and that is a very good statute, and that has been helpful to us, that Federal statute.

The CHAIRMAN. Were there any explosions in the State of Alabama?

Mr. PATTERSON. We have had several minor incidents, and we have had two or three rather serious ones, but the serious ones involved labor matters. The only one that I recall in the last 5 years where there were personal injuries resulted in some dynamite planted at Chapman, Ala., during a strike of the W. T. Smith Lumber Cos. in which several persons were seriously injured.

The CHAIRMAN. Were there any nonlabor cases in Alabama? There were some, you say?

Mr. PATTERSON. I can recall three or four. Of course, they are serious. Any type case of that sort is serious. I don't want to minimize that, but I mean the damage and so forth was not serious.

The CHAIRMAN. Were the culprits apprehended and convicted?

Mr. PATTERSON. I don't recall at this time any cases other than the case of three or four people who were apprehended in Birmingham for the illegal use of dynamite during the bus strike we had there, and I think the first trial resulted in acquittal, and I think the other cases are still pending on the docket.

I want to emphasize the fact that the people of our State in the field of law enforcement are not going to tolerate the taking of the law in the hands by individuals. We are going to enforce the criminal laws of our State. I want to assure you of that. There is no reasonable citizen in the State of Alabama who would advocate violence of any sort.

Now, there is a bill pending at the present time in the Judiciary Committee in the Senate. It is S. 124. I believe it was introduced by Mr. Javits, which is an amendment to—

The CHAIRMAN. That is not before us.

Mr. PATTERSON. I want to say that—

The CHAIRMAN. We have enough troubles of our own.

Mr. PATTERSON. But one thing that would be helpful to the States in these dynamite cases would be to amend title 18, section 1073, so as to make it a Federal offense to flee the State to avoid prosecution in dynamiting cases.

Mr. McCULLOCH. Mr. Chairman, that is title 2 of H.R. 4457.

Mr. PATTERSON. Does it amend 1073?

Mr. McCULLOCH. That is right.

Mr. PATTERSON. I advocated one time the amendment of that section to include all felonies, but the Department of Justice, I understand, was opposed because they realized it would be more work and tremendous difficulty. But to amend that section to include the willful destruction of private and public property by explosives would help the States because the FBI could come in then and help us apprehend people who flee the States who have done these things and return them to us, and we can prosecute them under the State statutes which are more severe under their punishment, you see, and I would certainly recommend the amending of that statute in that manner.

I believe that is all I have at this time, Mr. Chairman, and thank you very much.

The CHAIRMAN. We are very grateful to you, Governor. You have been very helpful and have made a very cogent statement, and we like your forthright manner in which you tell your story. Thank you very much, and we thank your delegation from Alabama, and I want to tell you, Governor, that they are one of the best delegations in the House.

Mr. PATTERSON. Thank you, and I agree with the chairman on that.

The CHAIRMAN. Our next witness is Representative W. J. Bryan Dorn. I understand that he will submit a statement, which will be accepted for the record.

(The statement follows:)

The CHAIRMAN. That will terminate our proceedings today and we will meet tomorrow morning at 10 o'clock.

(Whereupon, at 1:20 p.m., the subcommittee recessed to reconvene at 10 a.m., Thursday, April 23, 1959.)

CIVIL RIGHTS

THURSDAY, APRIL 23, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE No. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:05 a.m., in room 346, Old House Office Building, Hon. Byron G. Rogers presiding.

Present: Representatives Rogers and McCulloch.

Also present: William R. Foley, general counsel of the subcommittee, and Richard C. Peet, associate counsel.

Mr. ROGERS. The subcommittee will come to order. The committee will continue its hearings on the civil-rights bills.

We have with us this morning the Honorable Bill Colmer, longtime Member of the House of Representatives, who will present our first witness. Mr. Colmer.

STATEMENT OF WILLIAM M. COLMER, A REPRESENTATIVE IN CONGRESS FROM THE SIXTH CONGRESSIONAL DISTRICT OF MISSISSIPPI

Mr. COLMER. Mr. Chairman and members of the committee, it is my privilege this morning to present another witness in opposition to these proposals to further regiment not only my people of my great section of this country, but the people of all of these United States.

I am not going to take the time of this committee or my distinguished witness to make further comments, but I deem it a high privilege to present to you this morning a very learned gentleman from the great State of Mississippi, and, as I said on yesterday, the once sovereign State of Mississippi.

I present to you the attorney general, the Honorable Joe Patterson. I bespeak for him your patience and your understanding.

General Patterson.

Mr. ROGERS. Come forward, Mr. Patterson, or should I say General Patterson.

I note the presence from the State of Mississippi the next witness, the Honorable John B. Williams.

We are delighted to hear from you, General Patterson.

STATEMENT OF HON. JOE T. PATTERSON, ATTORNEY GENERAL, MISSISSIPPI

Mr. PATTERSON. Mr. Chairman, I want to thank my good friend from down in my home State, Congressman Colmer, for his kind

remarks, and I also want to thank this honorable committee for the privilege of coming back before this committee.

Mr. ROGERS. You have testified before this committee—what was it—2 years ago?

Mr. PATTERSON. Yes, sir, and I want to thank the committee for the privilege of permitting us to come back before this committee.

Mr. ROGERS. We are glad to have you back again.

Mr. PATTERSON. I appreciate the privilege of testifying on these highly controversial issues. It was my privilege to appear before this honorable committee in 1957 in opposition to the then pending civil rights bill and I wish to again thank the chairman of this committee for the attentive and courteous reception that I received at that time, as well as for the privilege of again appearing before this committee in opposition to similar bills.

I come before this committee at this time in the same spirit that I appeared before this committee in 1957. I come not in the spirit of resentment, not in the spirit of vindictiveness, certainly not in the spirit of defiance, but as a citizen and public official of the State of Mississippi who is interested in the problems that the pending bills propose to correct, as well as the problems that the enactment of the pending civil rights bills are destined to bring about not only in the State I represent, but in all other States that these bills are designed and intended to have the most direct effect upon.

I am opposed to all pending civil rights bills traveling under the title "Civil Rights Bills." However, I shall confine my remarks to H.R. 3147, commonly referred to in these hearings as the Celler bill, and H.R. 4457, commonly referred to in these hearings as the McCulloch bill.

I had hoped with the passage of the Civil Rights Act of 1957 and the now known result thereof that those who have so aggressively advocated such legislation would come to the realization that the end sought to be accomplished cannot be done by law. However, after reading the proposed bills now pending before this committee and reading the statements of ardent advocates of this legislation made before this committee in support of these bills, it appears that the sponsors of the so-called civil rights bills refuse to take cognizance of the failure of the Civil Rights Act of 1957 and the true reasons therefor and now want to proceed on the theory that the act of 1957 was not dictatorial enough and not harsh enough to accomplish the desired results and therefore they urge the passage of the bills now before this committee, especially the features of those bills that confer arbitrary and dictatorial powers in the Federal Government primarily in dealing with public school systems of those States who are not conducting their public school system in the way that the advocates of the civil rights legislation would have them conduct them, and, secondly, over elections in the States, and, thirdly, over employment in the States on Government contracts.

Reading the Celler bill, H.R. 3147, and the McCulloch bill, H.R. 4457, together in the light of what should be the guiding star of all legislation, and especially of such far-reaching legislation as that proposed here; that is, whether such legislation is for the common good of the Nation, we can come to only one conclusion and that is that the bills under discussion here are wholly unnecessary and, further,

that such legislation strikes once again at the rights reserved unto the States by the 10th Amendment to the Constitution of the United States and brings about another long step toward centralization of dictatorial power in the Federal Government, to the exclusion of the powers and rights of the States, as destined and intended by the Constitution and as so construed by the Supreme Court of the United States up until a few short years ago.

Taking up H.R. 3147, I respectfully submit that the finding set forth in title I should not be set forth in an act of Congress. Such findings are almost equal to the findings of fact by a court at the end of every long trial upon which a finding of guilt and severe sentence is to be imposed.

The findings set forth in the Celler bill are all debatable and, again like a court passing upon highly conflicting testimony, depend entirely upon the proof that is to be believed for its accuracy.

I find myself in agreement with one witness who has appeared before this committee in support of this legislation in one instance only. I refer to the statement of Mr. Will Maslow before this committee when he said that such findings "would be no more than an expression of sentiment" and recommended further "that no findings be included in any bill this committee reports."

I can indulge in considerable argument as to the accuracy of the conclusions reached in the findings set forth in the Celler bill. However, for the sake of time, I will not burden this committee with such argument, other than to say that such findings and conclusions are not well taken insofar as they apply to the State of Mississippi.

TITLE 2

This section simply puts the Secretary of Health, Education, and Welfare into a gigantic propaganda program at Government expense for the sole purpose of going into those States whose people see fit to have a different philosophy of government, a different social view and different ideology from those who advocate this legislation and by the medium of propaganda, and I might say "brain washing," under the guise of publishing and distributing information, would seek to impose their will and views upon the people of those States.

Title 2 would authorize the Secretary of Health, Education, and Welfare to spend from an already depleted treasury, \$10 million over a 4-year period solely for propaganda purposes in an effort to compel a people to submit to that which they are wholly unwilling to submit to.

TITLE 3

This section may well be referred to as the cash-inducement section. It merely says to States, municipalities, and school districts which maintained racial segregation in their public schools on May 17, 1954, that if they would cast aside their thinking and attitude on the question of integration and segregation and accept the political philosophy and ideologies of those who advocate this legislation, that the Secretary of Health, Education, and Welfare will give to them Federal funds to employ additional teachers, to indoctrinate those teachers and other school personnel in the sociological ideals of those who advocate an all-out integration program in the country. It even offers

to help pay the cost of employing specialists in the field of propaganda, to not only indoctrinate the teachers but to indoctrinate the parents and schoolchildren and the general public of the areas affected.

This section even authorizes the Secretary to spend Federal funds for the construction, enlargement and alteration of school facilities if they will only accept that philosophy.

In short, this section authorizes the Secretary of Health, Education, and Welfare to spend over a 4-year period \$160 million of Federal funds for the sole purpose of seeking to change the social order and way of thinking of the people of the Southern States by offering to pay them well for such change.

I assure this committee in all sincerity that if the authorized expenditures set forth in this section were raised to billions instead of millions, such purpose would not be accomplished thereby.

TITLE 4

This section is a followup to sections 2 and 3 in that it provides that in the event propaganda and brainwashing does not prevail, as provided in title 2, and offers of money do not prevail, as provided in title 3, then the Secretary of Health, Education, and Welfare may prescribe and promulgate his own plan for operation of public schools in the State that does not see fit to accept them.

TITLE 5

This section simply authorizes the United States Attorney General, in the event a State or school district does not see fit to accept the plan of salvation prescribed for them by the Secretary of Health, Education, and Welfare, to go into the Federal courts and compel compliance therewith.

TITLE 6

This section is merely an effort to bring back to life the eliminated title 3 from the Civil Rights Act of 1957, and would authorize the United States Attorney General to institute in the name of the United States a civil action or other proceeding, including application for injunction or other order, against any and all people of a State or political subdivision who, in the opinion of the Attorney General, based upon a signed complaint, threatens to or is about to violate what is conceived to be the complainant's civil or constitutional rights.

I submit that we now have ample laws, both Federal and State, to protect all of such rights and that it is a reflection upon the integrity and good intention of the courts of the States to presuppose that the courts and public officials of those States will ignore the constitutional rights of any of its citizens. Ignoring State laws, State courts and State officials and conferring supreme power upon the United States Attorney General cannot make of the United States Attorney General a superman; neither can it confer upon him or any staff that he may surround himself with, the ability to deal with the many and varied problems arising when dealing with race relations in a State.

H.R. 4457, referred to as the McCulloch bill, that which I have said with reference to H.R. 3147 I again say with reference to this bill.

Title 1 of this bill would simply center out for special punishment any person who opposes or threatens to oppose compliance with a court order directing integration of a public school.

Mr. McCULLOCH. Mr. Chairman, I would like to interrupt the witness, if I may. Would the witness have objection to that title if it were not restrictive and covered everyone who sought to obstruct justice?

Mr. PATTERSON. I think the title in that case, sir, would certainly be, I would say, more acceptable. It would certainly show a greater intent on the part of the advocates of this bill if they are really interested in seeing that court orders are complied with throughout the country. However, I think the court certainly has ample power to take care of it right now and has so proven.

Mr. McCULLOCH. Well, I would like to say this, since this bill bears my name: I will have no objection to an amendment that may be offered to this title of the bill. I have no desire to single out any type of decree which might be subject only to this title. I think that any decree unreversed and unstayed should be effective and anyone who seeks to obstruct it contrary to the accepted practices of the Anglo-Saxon system should be met with certain sanctions.

Mr. PATTERSON. Yes, sir.

Mr. ROGERS. May I say that while it was introduced by Mr. McCulloch, we refer to it as the administration bill. The Attorney General of the United States, I think, came before the committee and approved Mr. McCulloch's bill and we call it the administration bill.

Mr. PATTERSON. I understood that it was the administration bill, but having been a member of the legislative body in my home State, I know that sometimes we like for our bills to travel under our name.

Mr. ROGERS. Yes.

Mr. PATTERSON. It has already been proven in Clinton, Tenn., that good men and good women have been handcuffed and led off to jail simply because they objected to their schools being integrated. What more do the most ardent advocates of this kind of legislation want? Why should such extreme punishment be handed out only to those people who oppose this particular type of court order.

If opposition to court orders is to be viewed with such great alarm by the Congress, then why not let the penalty apply to any and all who oppose any type of court order?

Mr. McCULLOCH. Mr. Chairman, the witness already has my answer to that question.

Mr. PATTERSON. Yes, sir.

TITLE 2

This section provides for a special penalty for those guilty of flight to avoid prosecution for destruction of educational and religious structures and further provides violations of this section may be prosecuted in the Federal judicial court in which the person is apprehended.

I want to say here and now that in my opinion no right-thinking American citizen will approve or condone the bombing or burning of a school building or a church. Federal statutes dealing with bombing and burning of schoolhouses and churches are not necessary for the people of Mississippi. The statute laws of our State clearly show that the State of Mississippi and its people sometime ago recognized

the heinousness of such crimes and enacted ample laws to deal therewith.

I cannot understand why the ardent advocates of the many bills introduced in this session of Congress dealing with bombing and burning have seen fit to confine their bills solely to schools and churches.

Mr. McCULLOCH. Now, Mr. Chairman, I would like to again interrupt the witness. I would have no objection to an amendment to this title of the bill and would welcome the support of every Member of Congress to make it include every type of building, including homes, industrial establishments, stores, or otherwise. And I may say this, Mr. Chairman, that title 2 of H.R. 4457 is a much more mild and temperate approach to this question than some other bills that are before the Congress and are before this committee. I might add further, if I recall correctly that one of the witnesses from the deep South yesterday expressed no real opposition to this title as written.

Mr. ROGERS. Go right ahead.

Mr. PATTERSON. Isn't the crime just as great, just as cowardly, and just as deserving of severe punishment for a person to bomb or attempt to bomb a home known to be occupied or to bomb a plant or place of business or bus or train known to be occupied by the traveling public or the facilities of a public utility or industry, endangering the lives of those working and living nearby, as it is to bomb a schoolhouse or a church?

There has been no bombing of schoolhouses or churches in the State of Mississippi, and I venture to say there won't be any.

We have had in the past 2 years 3 Negro schoolhouses to burn at night. Much time and money has been spent in an effort to apprehend the arsonist and all indications are that at least one of such burnings was at the hands of members of the Negro race. In another instance all indications are that the fire was caused by defective wiring.

The only bombing that we have had in Mississippi within the past 5 or 7 years occurred during a labor dispute while a strike was being conducted.

In 1955 we had five or six bombings to occur in Mississippi during a strike against Southern Bell Telephone Co. by the communications workers. A number of underground transformers were dynamited in the dead hours of the night and in several instances nearby homes had their windows and walls shattered and the families put in a state of fear.

In one instance dynamite was planted on top of the operating building of the telephone company down in Pascagoula, Miss., at a time when the perpetrators of this crime knew that workers were on duty in the building.

Of course, after each incident the top-ranking spokesman of the union denied any knowledge of such bombing whatsoever and at one time went so far as to say such bombings were inspired by management. However, when the strike was finally settled, the bombings immediately ceased, and the union later walked into a Federal court in Nashville, Tenn., and entered into an agreed judgment against them for the damage occasioned by such bombing. I might add that it was later determined that those who actually did the bombings were professionals from the City of Chicago employed by top men

in the union outside of the State of Mississippi to come to Mississippi for the specific purpose of doing this job. And I want it specifically understood that no citizen of Mississippi working for the telephone company or otherwise had anything to do with it. This is just another one of the many efforts on the part of the—

Mr. ROGERS. Did I understand you to say there was criminal prosecution against communication workers for this bombing in Mississippi?

Mr. PATTERSON. Yes, sir, and that case was affirmed here recently by the U.S. Supreme Court.

Mr. FOLEY. Prosecuted in both State and Federal courts?

Mr. PATTERSON. They were prosecuted by the Federal Government down in Mississippi.

Mr. FOLEY. A State court?

Mr. PATTERSON. They walked into some court up in Chicago and pleaded guilty to some phase of the crime. They were not prosecuted in the State court of Mississippi, but there was a plea of guilty entered in one of the courts in the city of Chicago. They were later indicted in the southern district of Mississippi, where they were convicted of the crime and that case was recently determined here by the U.S. Supreme Court.

Mr. ROGERS. They were tried in the Federal court in Mississippi?

Mr. PATTERSON. In the southern district of Mississippi; yes, sir.

Mr. PEET. May I ask a question? And they were convicted of the crime of bombing?

Mr. PATTERSON. They were convicted of the crime of destruction of communication facilities that the Federal Government was using there. That is the way I understood the indictment. It is under a special Federal statute covering that phase of crime whereby the Federal Government was using the facilities or obstructing the use of same by the Federal Government.

Mr. PEET. Did the FBI participate in that investigation?

Mr. PATTERSON. I think they did, yes, sir.

TITLE III

This is just another one of many efforts on the part of the Federal Government to take over and supervise elections in the States.

I am going now to the election phase of the McCulloch bill. This section brings to life again and places before the Congress a question that has been argued many times; that is, whether the Federal Government or the States should supervise elections within the States. Certain groups have advocated for sometime that the Federal Government take over and completely dominate and control elections pertaining to Federal officers. This is in direct violation of the rights of the States. As long as the House of Congress and the U.S. Senate have it within their power to determine whether one of their Members was properly elected to that body, then I submit that such legislation as this is wholly unnecessary.

It is obvious that the framers of the Constitution did not intend for Congress to ever attempt to enact laws controlling Federal elections in the respective States. Proof of this is the fact that each House is the sole judge of the election and qualification of its Members and whether they are entitled to a seat therein.

We have only to look back to the dark days of Reconstruction to see what Federal domination of elections within the State can result in. During the dark and trying days that followed the War Between the States, the Federal Government came into the State of Mississippi and took over supervision and control of elections. The result was the election of incompetents and misfits to public office, and in some instances outright racketeers who did nothing to try to help the State recover from the ravages of the recent war, but, on the other hand, plunged the State hopelessly in debt that took many years of trial and tribulation to come out from under.

It finally dawned upon those who brought about this said state of affairs that such would not work and they finally withdraw from the State of Mississippi and permitted the people of Mississippi to again take over the affairs of their government.

The enactment into law of title III of this act would only be a step backward toward those dark and trying years. This section, like other sections of the proposed bill, presupposes dishonest and unfair elections in the States to be affected thereby.

Title V. This section would extend the life of—

Mr. McCULLOCH. I would like to ask the witness a question there. Mr. Patterson, do you think that there is anything really wrong with a requirement that the records upon which is determined the right to vote should be preserved for a reasonable period of time as the law of the Federal Government when those elections affect the election of the President, Vice President, and Members of the Senate or Members of the House of Representatives?

Mr. PATTERSON. Insofar as my State is concerned, we already have a law like that, sir.

Mr. McCULLOCH. Then it will not unduly interfere with your procedures down there? The records which determine whether or not a person may vote are carefully preserved for a reasonable length of time?

Mr. PATTERSON. Yes, they are.

Mr. McCULLOCH. So, therefore, this provision would not have any greater effect in Mississippi than it would in Ohio where election records are preserved in accordance with the law for a reasonable time?

Mr. PATTERSON. The point I am making—no, I agree with you and, as I say, that already is the law in Mississippi. We already keep records, complete records and we have a most elaborate system of contesting elections in case anyone doubts whether it has been properly held or not. But, sir, it is under State law.

The point I am arguing here is that it is not for the Federal Government to attempt to supervise those State elections.

Mr. McCULLOUGH. It is not the purpose of title III to supervise State elections. The purpose of title III is, first of all, to require that States preserve, for a reasonable length of time, the records upon which is based the decision of whether or not a person is a qualified elector and then to inspect those records, if need be, if reasonable cause is thought to exist that any person qualified to vote has been improperly denied that right.

Now personally I see nothing wrong with that provision, and I believe, like the President of the United States, that the elective franchise is one of the real cornerstones of representative government. If

it cannot be ultimately assured to all those who are qualified to exercise it, in accordance with law executed without fear or favor, then ultimately our representative republic is going to fail.

Mr. ROGERS. Do I understand your chief objection is that you feel that the Federal Government has no right to supervise or regulate elections for a Federal officer to be elected?

Mr. PATTERSON. Not to the exclusion of the States; no, sir.

Mr. ROGERS. Are you familiar with article I, section 4 of our Constitution, which says that the time, place, and manner of holding an election for Senators and Representatives shall be prescribed in each State by the legislature thereof, but the Congress may at any time, by law, make or alter such regulations, except as to the place of choosing Senators?

Now what is your interpretation of section 4 of article I if it does not give to the Congress the right to make those regulations? Do you concede that they have a right even after the reading of this section?

Mr. PATTERSON. I think as long as the State makes an honest effort and prescribes a proper method for the holding of these elections that there is no need for Congress to exercise that authority, that it does have to step in and approve or disapprove. I think if a State should set up a system of elections that was manifestly unfair, certainly then perhaps the Congress should step in, but as long as the State does have a good system as my State does have and as I think most of the other States have, then why step in?

Mr. ROGERS. The point is you don't deny that what Congress has a right to do; your suggestion is that they should not because the States are fulfilling the duties and responsibilities necessary for free, open election of all citizens. That is your argument?

Mr. PATTERSON. That is right. We have already got it and you are going to bring about this dual responsibility and authority and put us right back where we were a good many years ago, and I hope never again, when this very conflict arose between State and Federal authorities in the management and control of elections.

Mr. McCULLOCH. Mr. Chairman, I have a question. Is there pending before the Mississippi Legislature, or has the Mississippi Legislature passed a bill which has become a law which would authorize the destruction of voting records or the evidence to determine the eligibility of voters in an unreasonably short time?

Mr. PATTERSON. No, sir. The last session of the Mississippi legislature, Congressman, was in 1958. We do not have a session now and will not have one this year, unless a special is called by the Governor.

Mr. McCULLOCH. Now, Mr. Chairman, I would like to comment on this question that the witness asked and, as I recall, I believe the question was why should the Federal Government go into this field when the States were insuring to those who were qualified to vote the right to vote whenever they desired to do so.

As I recall, Mr. Chairman, there is evidence in the record that certain people with considerable formal education, including degrees from recognized universities in the country, had been denied the right to vote in some of the States and I believe in the State of Mississippi, as I recall, Columbia University was one of the colleges named. And there is also evidence in the record that in some counties less than a

score of Negroes have voted and that applications for registration have been denied there. It is because of such information in the record in this session of Congress and similar evidence in the record in former Congresses, that the proposal for title III comes about. I would be very glad to have the attorney general comment upon whether or not in substance the evidence that has gone into the record is in accordance with the facts in his State.

MR. PATTERSON. Going to your first question, Congressman in the first place I want to say that I take it that the Congress still concedes to the States the right to prescribe qualifications for electors.

MR. McCULLOCH. In accordance with the Constitution, yes, sir.

MR. PATTERSON. I think it will be a sad day in any State in this Union when just the fact that a man or woman is 21 years of age and, say, can read and write, that that alone entitles him to go in and become a qualified elector of that State. I frankly state to you, Congressman, that I think it the duty of the State legislatures to prescribe reasonable qualifications for voters in every State in the Union. It is only at the hands of an intelligent and enlightened electorate that our form of government can survive as I see it.

MR. McCULLOCH. I think that statement has been made by many, many legislators, if not a substantial majority of the voters at the State and Federal level.

MR. PATTERSON. And I even go further: I think the right to vote, although it is talked about sometimes as an inalienable and God-given right, I also think it is a privilege rather than just an outright matter of right.

Now going further to the Congressman's question, in the first instance with reference to denial of registration, I don't know of any instance of that kind down in Mississippi where those who are in fact qualified under the laws of the State of Mississippi to become qualified electors, and I think the registration books of the counties of our State will show my statement to be correct.

Now we had a lawsuit down in Mississippi not more than a year ago on this very question, where that same charge was made, but when called upon to support that charge with proof, they wholly failed.

MR. ROGERS. Counsel, I think, would like to ask you some questions, General.

MR. PEET. Mr. Attorney General, could you tell us how many people are registered to vote in the State of Mississippi?

MR. PATTERSON. That I cannot. And my reason for that is that we have no central gathering agency, no central agency in the State government whereby the number of qualified electors are reported. The only way that question could be accurately answered—that is, the only way information can be obtained to accurately answer your question, sir, would be to call upon the circuit clerk of every one of the 82 counties and ask him to supply that information to you as pertains to that county, and then get them all together, which I have not done.

MR. PEET. Do you know how many people are registered in your county in Mississippi?

MR. PATTERSON. In my county of Calhoun, at present I do not because this is what we call the big election year down in Mississippi, when we are going to elect everything from constable to Governor and

I don't know what the status of registration even in my home county is right now.

Mr. PEET. Could you tell us do you have any idea whether or not there has been an increase in Negro voter registrations in recent years in your county?

Mr. PATTERSON. I sure could not.

Incidentally, my home county is up in the northeastern part of the State and of course now I am living in the capital city of Jackson and I am not in my home county very often.

Mr. PEET. Have you heard, sir, any instances of voting officials in the South or in your own State who have deliberately set out to substantially reduce the number of Negroes who are registered to vote?

Mr. PATTERSON. I speak only for my own State and in the case of my own State, no, sir.

Mr. PEET. Do you have any idea of how many counties in your State have more than 5 percent of the Negroes registered to vote?

Mr. PATTERSON. No, I do not, sir. And as I understand that question, sir, going further, and as the courts have held, mere numbers of a population in a county doesn't indicate a right to vote or an eligibility to vote—it is just mere numbers.

Mr. PEET. But would it not indicate, if a very small percentage of the Negroes passed qualifying tests, would it not indicate an inferior educational system?

Mr. PATTERSON. I don't think so, because we have a good educational system. I don't see how it could be attributed to that. Not at all.

I would like to point out, just to show you on that very question, we have a case pending right now that we hope to get before the U.S. Supreme Court, whereby a State conviction was reversed by the fifth circuit a few months ago on the proposition that there were no Negro names in the jury box nor on the grand jury that indicated and the petit jury that tried it. They didn't raise that question until after conviction in the State court, affirmance by the supreme court, and denial of certiorari in the U.S. Supreme Court, and then for the first time they raised that question; and then again in the Federal court and when it went back on a petition for habeas corpus on these allegations, they raised the question that Negroes had been systematically excluded from jury service. In order to be eligible to serve on a jury one of the qualifications is that the prospective juror be a qualified elector and it was charged that the system of registration necessary to become a qualified elector was so manipulated that it denied them the right of registration, thereby in turn denying eligibility for jury duty.

The courts were thrown wide open to the Chicago law firm that came down and took over this case, to make that proof in the U.S. District Court at Oxford, Miss. He brought five members of the Negro race into the courtroom from that county—good substantial Negro citizens of that county. They owned their farms; they lived there for years; they were obviously intelligent. He asked them were they qualified electors of that county, and they said "No." He asked them had they ever been called for jury duty and they said "No."

He asked them if they ever saw members of his race sitting on juries in that county, and they said "No."

I asked him had any public official of that county ever denied him the right to become a qualified elector of that county and he said "No." I asked him further had anyone ever threatened him or any member of his race in that county, to his knowledge, at any time if they did seek to become a qualified elector, and he said "No."

I said, "Has any citizen ever threatened you and told you that you couldn't become a qualified elector of your county if you wanted to?"

He said, "No."

I said, "Then the only reason you are not a qualified elector of your county, so far as you know, is that you have not tried to be."

He said, "That is right."

And every witness that was put on there, members of the Negro race, gave the same answer.

Now registration, as I understand it, to vote is not compulsory in any State in the Union, and why should the people of Mississippi be expected to go out and solicit registration. I don't know that they do it anywhere else.

Mr. PEET. May I pose one hypothetical question to you?

Mr. PATTERSON. Yes, sir.

Mr. PEET. If in your county 50 percent or less of the Negroes were registered to vote, would you consider that title 3 of the administration bill was warranted?

Mr. PATTERSON. I don't think it is warranted if 100 percent of them were registered to vote. Certainly the Federal Government shouldn't pass a statute here to go down into a State and compel registration for voting on the part of anyone—white or Negro.

Title 5—extending the life of the Civil Rights Commission. When I appeared before this committee in 1957 in opposition to the civil rights bills pending before the Congress at that time, I stated that in my judgment the task assigned to the Civil Rights Commission could not be accomplished by six men regardless of ability in perhaps 8 or 10 years or longer. I further stated that the creation of this Commission for its stated purpose would set up in the executive branch of the Government a source of harassment to the States in the administration of their laws and a constant source of harassment to the executive branch of the Government by those who were going to feel that the Commission was being provided for their sole benefit, to the exclusion of all others.

I also predicted that if the President did not appoint members of the Commission who had previously demonstrated complete sympathy and accord with the views and wishes of those well organized groups who were responsible for the proposed legislation that the President would immediately have the wrath of those groups brought down upon his head and be accused of not being in sympathy with his own recommendation.

I think subsequent events have proven such predictions to be true. I do not know of any worthwhile accomplishment that the Commission can report to this Congress.

The ardent advocates of the creation of this Commission have been wholly dissatisfied with the personnel the President saw fit to appoint thereon. The Commission has wholly failed to accomplish anything in any State in which it has tried to function. The Commission did go down to the State of Alabama and after considerable furor wound

up in the Federal Court of Alabama, but I again ask was anything worthwhile accomplished by this escapade? Of course it gave the extremist something to condemn the great State of Alabama about, but I still ask was anything worthwhile accomplished?

I submit that this Commission which should never have been created in the first instance should now be permitted to pass out of existence.

TITLE 5

This section is just another effort to open the doors for an FEPC, another question which has been debated by the Congress on numerous occasions. I still think that an individual, a business or an industry has the constitutional, and I might say civil right, to determine whom it will hire and fire. I do not see how the most ardent advocates of this type of legislation can deny that this kind of law is not very similar to the law that prevails in communistic Russia where the government takes it upon itself to say who will work, where they will work and how they will work. I still think that free enterprise and private initiative is one of the greatest contributing factors to the progress of the United States of America and I further think that when the Government attempts to step in and take over in the field of employment and take away from the employer the unrestrained right to employ and dismiss employees, then that day the Government begins to destroy one of the prime factors in our great progress and development as a Nation.

TITLE 6

I have no argument with this title; that is, if the Federal Government wants to provide schools on Federal property for children of members of the Armed Forces. I can see no reason why States or representatives of a State should object to this being done by the Federal Government.

TITLE 7

This section deals with grants to assist States and local educational agencies to effectuate desegregation. What I have said with reference to Titles 2, 3, 4, 5, and 6 of H.R. 3447 are equally applicable to this section and I shall not repeat same here.

Mr. Chairman, I have read the statements of a number of witnesses who have appeared before this committee urging the enactment of the two bills here under discussion and some even seeking to go further than the two bills provide. It is interesting to note that those ardent advocates of these bills confine their advocacy to entering the public school systems of Southern States and confine their remarks to conditions alleged to exist in those States. They are very careful to urge that these bills be directed solely to what they are pleased to term deplorable conditions in certain States. They are also careful to urge the enactment of criminal statutes dealing solely with specific acts committed in those States.

I have read the statement of the two spokesmen for the AFL-CIO, who have appeared before this committee. I notice that each of them have ardently advocated the enactment of provisions of the proposed bill whereby the Attorney General is given unlimited authority to enter into school integration controversies and to exercise all of the powers

of the Federal Government at his command in order to see that such orders and decrees are carried out.

If these spokesmen of the AFL-CIO are such ardent advocates of the unlimited use of injunctive power by the Federal Government, I wonder if perchance they did not overlook recommending to this committee the repeal of the Norris-LaGuardia Act, an act which gives to them and their organizations virtual immunity from the injunctive process of the court.

If the Congress is going to determine that the Attorney General should have unlimited power to seek injunctions against any and all who may or might be depriving someone of his civil or constitutional rights, then shouldn't all laws that prohibit the issuance of an injunction against any person or organization of persons who might violate someone's constitutional or civil rights be repealed so that the Attorney General can cover the entire field of violation of constitutional rights? How can anyone consistently and conscientiously contend that it was proper for a group of men and women, good men and women, to be handcuffed and led into a Federal courthouse in Clinton, Tenn., all because they had simply gathered in front of a school building that had been bought and paid for with their own tax money, a building that the Federal Government did not have one thin dime in, and be held in criminal contempt of court and sentenced to a term in jail and then turn around and say that a group of strikers on the picket line committing all kinds of violence—in fact, taking the law into their own hands and making their law as they go, and have it said of them that they are merely exercising their constitutional rights and that the Federal Government shall not interfere with such conduct and that, if such is to be coped with, it is a matter for local law enforcement.

There was no evidence of violence whatsoever on the part of the people at Clinton, Tenn. They were merely exercising what they thought to be their constitutional right under the first amendment to the Constitution—the right of freedom of assembly, the right of freedom of speech, and the right to protest.

Much has been said before this committee about Little Rock, Ark. In fact, Little Rock has been used as a soundingboard and a whipping boy since the unfortunate occurrence there. Yet, when we look at Little Rock with an open, unbiased, and unprejudiced mind, what do we find? We find that the Governor of that State simply tried to do that which he felt he was obligated to do as the Governor, to preserve law and order and keep down violence. He would have succeeded in that undertaking without incident if his act had not been seized upon by the radicals of this country and magnified into a national cause celebre.

I read the statements of those who bemoan the fact that the occurrences at Little Rock have given us a bad name abroad and that if the proposed civil rights legislation is not enacted into law that we are going to have other similar incidents and even have a worse name abroad.

In the first instance, Mr. Chairman, I fail to see where we in the United States of America should be so concerned about what the totalitarian nations abroad think about the way we administer the affairs of our Government in general and the way we operate what

is supposed to be our free institutions. It is indeed unfortunate that the representatives of some of our great news-gathering agencies in the United States of America are largely responsible for the misunderstanding of people abroad of the United States of America and its people. I cannot understand why certain great metropolitan newspapers, magazines, and news commentators in the United States will attempt to take a section of their own country and hold it up as a land of barbarians to the people abroad and thereby give them a mis-conceived idea of good American citizens, and yet the fact is that they do. Therefore, I say, Mr. Chairman, that the misunderstanding of the people abroad about the people of the United States of America is the handiwork of certain citizens in our own country, but in spite of all that was said about Little Rock, the fact still remains that the only act of violence committed in Little Rock were by the Armed Forces of the United States upon the citizens of Little Rock. There were no bombings; there were no burnings; there were no acts of violence at the hands of the people of Little Rock, Ark. They did not find any of the citizens of Little Rock armed with blackjacks, brass knucks, iron pipes, and sometimes machineguns. There were no acts of vandalism, no vehicles were destroyed, and no homes had rocks hurled through their windows in the dead hours of the night. There were no small groups going around at night searching out anyone who might oppose them and beating them up just because they did not agree with them. Yet certain groups have seen fit to scream since the days of Little Rock that such was a national disgrace.

We have only to look back to the first part of this week and see what has happened down at Henderson, N.C., There we see good men and women barricaded in a building, refusing to let them come out because they want to exercise their right to work. Bombs were thrown down there, according to the press reports. Searchlights in the hands of law enforcement officers, shot at with pistols, and I have not heard one advocate of these bills stand up on the floor of this Congress and say anything is wrong about that.

Compare Little Rock to Kohler, Wis., as well as all other communities throughout the Nation that at times have found themselves in the throes of a labor dispute. It is a known fact that complete defiance of all law and order has prevailed in Wisconsin, just like it is prevailing down there in North Carolina right now.

For several years a large labor organization has held this town and community in virtual terror since the beginning of the days of the strike. I do not want to be understood as antilabor—I think every working man and woman in America has a constitutional right to belong to a labor union if he or she wants to. On the other hand, I think they also have the same constitutional right to decline to belong to a labor organization, and I think it the duty of both the Federal and State Government to protect them in the exercise of this right. I have never yet heard one of the advocates of these so-called civil rights bills, who so loudly condemn the occurrences of Little Rock and other sections of the South, ever say one word about the conditions prevailing in Wisconsin or other areas that might find themselves strikebound.

What greater constitutional right does an American citizen have than the right to engage in his chosen trade or occupation without being compelled to belong to an organization for the privilege of doing so?

The many acts of violence and vandalism accompanying strikes and efforts to organize workers throughout the Nation are well known. Yet all of them put together did not attract one-tenth of the attention that the one incident down in Little Rock attracted.

It is well known that many strikes have been accompanied by every known form of violence and vandalism. Men have been beaten into insensibility, homes destroyed, women and children terrorized, one man murdered by musclemen using gangster tactics in an effort to make a group of men submit to their will. During the past 2 weeks two men have been murdered down in the State of Kentucky as a result of a strike in the coal mines. Yet I have not heard one advocate of the civil rights bills stand up and express any alarm whatever over such happenings. If one-tenth of the violence and vandalism occurring in labor disputes during the past year had occurred in Little Rock, Ark., there would have been a demand at the hands of the liberals for complete military occupation of the entire State of Arkansas.

Isn't violence at the hands of musclemen and goons who are called persuaders just as reprehensible as violence in any community where there may be a difference over school integration? Isn't a home bombed or wrecked just as completely destroyed at the hands of those promoting a strike as a home of one who might be engaged in a difference with reference to integration? Isn't a vicious beating up of individual by a labor persuader just as much a crime as one getting beat up in a school integration dispute or in an election dispute? Isn't the bombing of a home or plant or industrial facility just as great a crime as going out and bombing a school building or any other kind of building? Shouldn't the person committing such acts be held accountable to the same kind of law and punishment? If not, why not?

I want to say that I am not antilabor. Many fine men and women in the State of Mississippi belong to organized labor and it is my privilege to enjoy their friendship and confidence, but I assure you that the members of organized labor in the State of Mississippi are just as opposed to the objectives of the pending civil rights bills as I am.

I would like to point out just one other thing, Mr. Chairman. I noticed that the first of this week a certain labor leader appeared before a committee of this Congress from the west coast. One Mr. Bridges. He came all of the way over here and defiantly said to this Congress that if the attitude of this Government is not according to the way he would have it be, that he will call a strike on the west coast and even tie up shipments of military arms. Talk about defiance—arrogance—and yet I have not heard one so-called liberal stand up and call his hand on it.

I remember quite well when I was in the Army in World War II, stationed out on the west coast, and that same gentleman called a strike there when boys were dying in the Pacific and sought to tie up a shipment of military arms, ammunitions and supplies and arrogantly protested use of the U.S. Army to load those boats. And I have not heard those who would condemn me and mine as being arrogant and defiant say one word in dealing with one like that.

Mr. McCULLOCH. Mr. Chairman, I would like to say that there is going on in the Senate yesterday, today, and tomorrow a counting of noses and the record will be of great interest in the very field in

which the gentlemen is speaking. Furthermore, Mr. Chairman, of course two wrongs do not make a right.

Mr. PATTERSON. No, sir.

Mr. McCULLOCH. And there is available to those who feel as the distinguished witness the right of proposing amendments, particularly to 4457. Violence on the part of any person, firm, or corporation is violence to me in whatever field it may be.

Mr. PATTERSON. Yes, sir.

In conclusion, Mr. Chairman, I would like to point out that the enactment of the pending bills here and all other bills similar to the bills that I have discussed is wholly unnecessary insofar as the people of Mississippi are concerned.

I want this committee to know that the people of the State of Mississippi are not unmindful of their obligations to the school children of the State of Mississippi, both black and white. The people of Mississippi started a program of school construction before the U.S. Supreme Court desegregation decision in 1954, a program that will eventually cost the State approximately \$160 million. \$60,534,000 has been allocated for new and enlarged buildings and equipment and of this total amount about \$43 million has been for building facilities for the Negro population.

More than 4,500 new classrooms have been provided for and about 3,000 of the total number were for Negroes.

According to the most recent available figures, we have enrolled in grade and high schools of the State of Mississippi 281,684 white children. We have 268,246 Negro children. As you can see, they are almost equal, and I might add in some counties the Negro population of children will outnumber the whites 10 to 1.

There are 7,217 Negro teachers in the grade and high schools alone in the State of Mississippi, with a total annual payroll from the State level of \$18,825,000. This is being supplemented at the local level, bringing the total payroll of the Negro grade and high school teachers alone in the State of Mississippi in excess of \$20 million; 248,500 pupils are transported free of charge to and from the public school systems of our State. Of this number, 107,407 are Negro pupils. They are transported in buses owned by the county and driven by Negro bus drivers at a yearly cost of \$2,191,208.

Out of the 7,217 Negro teachers in the grade and high schools alone, you will find 311 of these teachers hold class double A teacher's certificate and 4,237 of these teachers hold class A teacher's certificate and 4,237 of these teachers hold class A certificates, representing for the Negro group nearly 60 percent as holders of the highest type of certificate issued by the State Board of Education. And under the law in the State of Mississippi, teachers are paid in accordance with their educational attainments and number of years of teaching experience—no difference being made whatsoever as to race.

There are six Negro senior college presidents and nine Negro junior college presidents in the State of Mississippi. From the information I am able to obtain, there is not a State in this Union that has as many Negro grade and high school teachers as does the State of Mississippi. Neither is there a State in the Union that has as many Negro senior college and junior college presidents.

In the Negro senior and junior colleges there is a total faculty of 436. The dual system of education in Mississippi is working to the complete satisfaction of both races. There is no strife, confusion or dissatisfaction among the races in the State of Mississippi. Both races are working in complete harmony.

We are looking forward to a greater, bigger, and better educational system in our State for the benefit of both races. If these harmonious relations between the races, if the progress and development that we have made up to the present time is to be destroyed, I say to you, Mr. Chairman, such will be accomplished at the hands of outside agitators coming into our State with false propaganda and promises and not of the people of Mississippi.

If the more than 7,600 members of the Negro race employed in the grade and high schools, junior colleges and senior colleges are to be without employment and their schoolhouses closed and they are to be deprived of their well in excess of \$20 million payroll in the State of Mississippi, I assure you, Mr. Chairman, that the members of the Negro race are going to know exactly who is responsible for their unfortunate plight.

When the ardent advocates of a forced social order by a court decree and bayonet seek to take over the public school system of Mississippi, the result is going to be a complete paralysis of a model school system that is now being operated by the State for the benefit of both races, a system both races are proud of and are happy and contented with and the innocent victims of that paralysis are going to know exactly who is responsible for such.

Those 7,217 Negro teachers in the grade and high schools who are now enjoying the best pay scale that they ever have enjoyed in the State of Mississippi are going to know why they are without employment and nowhere to go, along with 436 teachers and employees in the Negro junior and senior colleges who are going to be in the same unfortunate circumstance. Those Negro bus drivers who are transporting 107,407 Negro pupils to and from the public schools in Mississippi today are going to know why their buses are no longer running and they, too, are without employment. They are going to know that their unfortunate plight is not the handiwork of the people of Mississippi, but is the handiwork of outside agitators who would destroy their public school system, throw them out of employment and do anything else in an effort to force their social ideologies upon the people of my State, both black and white. They are going to know that radical organizations, particularly the NAACP, and those who call themselves liberals both in and out of Congress are solely responsible for their unfortunate condition, and I might add, Mr. Chairman, they are going to be told that inasmuch as this group brought them to their sad plight that it is fitting and proper that they call upon this same group to bring them relief.

Will the State of New York promise a single one of those Negro teachers of the State of Mississippi a job in the event he finds himself without employment in Mississippi? Will the State of Illinois and particularly the city of Chicago offer to the Negro teachers of Mississippi employment in their school system?

I mention New York and Chicago because that happens to be the fountainhead from which most agitation for the kind of legislation

here under discussion before the Congress flows. It is passingly strange that the authors and advocates of the numerous so-called civil rights bills now pending before both houses of Congress designed solely for the purpose of enforcing the will of the authors and advocates upon a people who do not see fit to accept their political thought and sociological ideals, although they express great alarm over conditions prevailing in a State where peace and harmony and common understanding among all of its people prevails and would seek to impose upon those people legislation destined to destroy that peace, harmony and common understanding, and at the same time those ardent advocates of this kind of legislation, both in and out of Congress, have not been heard to say one word or express any degree of alarm whatsoever over the revelations of the McClellan committee during the past 2 years.

The McClellan committee has clearly shown to this Nation that large and powerful organizations have no regard whatsoever for the civil rights of working men and women, as well as American business and industry. The McClellan committee has clearly shown to this Congress that in certain areas of this country, not in the southland, that there is an actual coalition between labor bosses and gangsters for the sole purpose of exploiting working men and women and American business and industry with no regard whatsoever as to their civil or constitutional rights.

Mr. McCULLOCH. Mr. Chairman, I would like to interrupt the witness there again because I am at least the sponsor of 4457. I hope that both Houses of Congress of the United States and the people on both sides of the aisle will have the courage to do that which the McClellan committee hearings have so clearly shown needs to be done. I hope that those who are for this type of legislation and those who are against it will demonstrate the same courage in this controversial field which you have spoken about, as they demonstrate in their advocacy or opposition to 4457 or any part thereof. I welcome recruits and supporters to correct the situation as has been demonstrated by the McClellan committee.

Mr. PATTERSON. I am going to venture the prediction that many of those who have come before this committee and advocated the passage of these bills, that they are going to be right back before the committees of Congress opposing any bills to cure the deplorable conditions as revealed by the McClellan committee, and naturally that poses the question: Does the ability of powerful labor organizations to finance political campaigns and to deliver to the candidate of their choice huge numbers of bloc votes minimize their criminal acts and virtually render them immune from the process of law?

I notice that just last week an inspired and well-planned youth march was staged here in the Nation's Capital. To me it is always a tragic sight to see organizations and individuals take the youth of this country and attempt to regiment them and use them as a front to further their own selfish political and personal ambitions, to attempt to take the youth of this country and lead them to believe that they are aiding in the furtherance of a noble cause when in truth and in fact they are being used as pawns and exploited to further certain organizations and individual's selfish and sinister purposes. However, that is nothing new to mankind. Adolf Hitler exploited the

youth of Germany to further his ambitions and we see the men of the Kremlin using the youth of their land, as well as other lands under their ruthless domination in an effort to further their sinister designs and purposes.

Mr. Chairman, we need to return to the political philosophy of a Thomas Jefferson and Abraham Lincoln. It is under their philosophy of government that the United States of America has grown so great and so powerful.

I fully realize that certain changes are always necessary if a nation is to continue to progress. However, I am firmly convinced that the fundamental principles of good government, like the fundamental principles of the Christian religion, never necessitate change.

The bills that I have discussed here today and all other bills pending before the Congress of like character are radical departures from the fundamental principles of good government. They seek to impose upon a people the political philosophy of government and sociological ideals of a small, yet well-organized group of people who seek to take the power of the U.S. Government and force their ideas upon others in the name of civil rights.

Mr. Chairman, I say to you in all sincerity that if these bills are passed by the American Congress and sought to be enforced upon the people toward whom they are directed and intended to be brought to bear upon, they will not prove to be what their title says they are—"civil rights bills." On the other hand, they will prove to be "civil strife bills."

If this type of legislation is to be persisted in and becomes the law of the land, I firmly believe that the day will come when those who have advocated and brought such to bear upon the people of our country will not be the heroes that they may appear to be for today, but will in the days to come be looked upon as those who started this country on a backward march that ultimately will lead to the destruction of a great democratic-republican form of government composed of sovereign States with all rights vested in those States that were not conferred upon the Federal Government and substitute therefor a strong armed dictatorial central government with no regard whatsoever for the rights of the sovereign States.

Mr. Chairman, I thank you so much for such a courteous and patient hearing.

Mr. ROGERS. Thank you, General Patterson. We certainly appreciate your statement.

Our next witness is the Honorable John B. Williams, the Representative of the great State of Mississippi.

STATEMENT OF HON. JOHN B. WILLIAMS, A REPRESENTATIVE IN THE CONGRESS FROM THE FOURTH CONGRESSIONAL DISTRICT OF MISSISSIPPI

Mr. WILLIAMS. Mr. Chairman and members of the committee, I am very grateful for this opportunity to appear before this committee this morning to express what I think to be the views of my people with respect to this legislation.

First I would like to extend my congratulations to Mississippi's distinguished attorney general for the very forceful argument which

he has just made and for the presentation of an unanswerable case against this legislation. He has recently been in court to defend a frivolous voting suit in the Federal Courts in the State of Mississippi. His victory was so conclusive that the NAACP threw up their hands and didn't even bother to appeal the case.

Now I would like at the outset, Mr. Chairman, to make this remark: Several years ago—I believe in 1956—it became my responsibility as a member of the District of Columbia Committee of this Congress to serve on an investigating committee which made a survey and study of the deplorable conditions that came about as a result of the tyrannical Supreme Court decision of 1954. The liberal press—and here I want to make mention of the liberal press of this country, and particularly the Washington Post here in the District of Columbia—the liberal press referred to that investigation as a sort of “kangaroo court”; as an investigation intended to smear the people of the District of Columbia. They complained that the committee was composed of four members from the Deep South and two members from north of the Mason-Dixon line, and therefore, the committee would not be fair.

The committee before which I appear today, as has already been pointed up in previous testimony, consists of not one single member from the south of the Mason-Dixon line where the problem of which the committee complains is most prevalent; and yet I have not seen a single editorial in the Washington Post, the Daily Worker, or any of their companion leftwing newspapers deploring the fact that this committee does not have even one single spokesman from the area affected by this legislation.

This legislation, in my opinion, and I think in the opinion of many millions of people, is designed to create here in these United States a police state, with its resultant thought control, its physical control over the people by use of Federal Gestapo, and Federal control over the minds of our youth.

I regret, indeed, that the distinguished chairman of the Judiciary Committee is not present today because I would like for him to hear this. Certainly of all of the people in the U.S. Congress and this committee, he should be most aware of the lesson we received in this world some 20 or 25 years ago through the creation and operation of a police state in Germany. It was his people who suffered the most under that police state. However, if he finds comfort, Mr. Chairman, in contributing to the setting up of the present police state in the fact that his side may be in power this time, I would simply remind him of the fate that befell Adolf Hitler and his associates who was on the majority side some 13 or 14 years ago.

I am gravely concerned over the preservation of our constitutional system of government. It is the fundamental premise upon which this Government was founded; that it should be a government of limited powers. If that were not true, Mr. Chairman, there would have been no need for us to have a written Constitution. The very purpose of the written Constitution which we have is to limit the powers to be exercised by government. It delegates certain powers to the Federal Government and reserves all other powers to the States or to the people respectively.

You have already been reminded in testimony before this committee by eminent and distinguished persons of the remark made by President

George Washington in his farewell address when he told us, in effect, that if the Constitution be wrong in any respect, let it be changed in the manner prescribed therein, but let there be no usurpation; for though this in one instance may serve a temporary purpose, it is the usual means by which free governments are destroyed.

I would caution you against seeking to usurp the powers reserved to the several States under the Constitution merely in order to serve a temporary expedient, whether it be a political expedient or otherwise, and this legislation—I am certain no one will deny this—was born—all legislation of this type was born of an effort to secure the political support of certain block vote groups to retain or attain national power.

Eminent and distinguished citizens of the United States—particularly the Southern States—attorney generals, Governors, and civic leaders have appeared before this committee in the past few days and have testified to the fact that the Supreme Court decision and the ensuing effort to enact force legislation has resulted in a complete breakdown in race relations.

The Supreme Court arrested all of the progress that had been made in the field of racial harmony in the South, and subsequent efforts to pass this kind of legislation have actually reversed that progress. As for myself, and I think I know the people of Mississippi pretty well and I can speak for them when I say that the State of Mississippi will not permit its public schools to be integrated. You have heard the Governor of Alabama make the same statement. You have heard other public officials from other Southern States make the same statement.

Only yesterday I was talking to the president of the school board in Little Rock, Ark. You know, as a result of the Supreme Court decision and the President's unconstitutional order—I say that advisedly—sending troops into the city of Little Rock, in violation of the limitation of powers imposed upon him by article 4, section 4 of the Constitution, the high schools of the city of Little Rock have been closed and public education has been denied to white and colored high school students alike.

I think it might be well to point out here that the white people of Little Rock, through public subscription and voluntary contributions, set up a private school system for their white children; and the white children of Little Rock today are not being denied an education merely because the public high schools have been closed.

Now, because there was no effort on the part of the Negro citizens of Little Rock to educate their own children, the good white people of Little Rock, according to the president of the school board, Mr. McKinley, felt that they had a responsibility to help the Negroes and so they started passing the hat around in the interest of setting up a private school system for the colored children of Little Rock. Not only did the NAACP not contribute to this, but the NAACP overtly opposed these efforts to raise money to educate the Negro children even though it was going to be done by the white people in the community. To me that is proof of the NAACP's insincerity, and I think it is something that this committee should know. The NAACP is not interested in the welfare of the Negro or their advancement: their aim is to exploit the Negro to gain power.

Now, Mr. Chairman, it is my privilege to represent somewhere in the vicinity of 460,000 citizens of the State of Mississippi, my congress-

sional district. The proportion of colored to white in my district is almost 50-50. That means that I am privileged to represent between 200,000 and 225,000 Negroes. I represent more Negro citizens in one congressional district than you will find in the combined congressional districts of every single member of this subcommittee.

Now that points up something that I think is rather curious: that is the fact that those who are farthest removed from the problem seem to think that they are the only ones who are qualified or capable of solving the problems with which we in the South must live.

This problem will never be solved unless it is solved by local people in accordance with local needs and local conditions. We will not permit Federal Government or anyone else to tell us how we are going to operate our own schools for our own children with our own money.

As for the legislation presently before the committee, I have taken H.R. 4457, introduced by the distinguished gentleman from Ohio, for analysis. The reason I have done that is that it is proclaimed to be the most "moderate" of all of the bills before this committee. It is the bill, as I understand it, that has been submitted by the President and Attorney General Rogers as the administration's product.

Taking that bill briefly, section by section, title I of the bill infringes on the right of free speech. Is there anyone who can deny that title I, through its language, sets up Federal control over what may be said by the people of this country publicly?

Now it is discriminatory in the sense that it would punish critics of the court's school decisions and school orders, but it does not deal with criticisms of other decisions—such as the Communist cases and others. It abridges the right of freedom of assembly, which Attorney General Patterson touched upon a few minutes ago. It conceivably stifles objective discussion of the subject of problems brought on by the Supreme Court's decisions.

The key word in the bill is the word "corruptly," and that is subject to interpretation by the law enforcement officers as to whether an individual is acting corruptly or in good faith. It could be used by Federal attorneys to intimidate newspaper editors, ministers, public officials, and just plain, ordinary citizens.

The present Justice Department hierarchy preaches tolerance and understanding in every field except the right of southerners, and the right of the several States to govern their own affairs in accordance with local needs and local conditions.

Title I in my opinion smacks of Hitlerism. In plain words, what Mr. Rogers proposes is that citizens who are not legally bound by court order shall be punished as felons, if they don't obey the order which does not bind them: that is, the school desegregation order. This, he said, will establish a "rule of law." The legal rule that the citizens is not bound by a court decree which does not include him is a safeguard against judicial tyranny which has been a part of the American Anglo-Saxon and Roman law for perhaps 2,000 years. It means that the court may not command the free citizens without giving him his individual right to be heard. It is this right that Mr. Rogers proposes to destroy in the name of "rule of law."

Now, Mr. Chairman, with respect to title I, I have received two letters from one of my constituents in Mississippi who has given me

permission to insert these letters into the record. They are an excellent discussion of title I of this bill and in order to spare the committee the time of reading these letters, I would ask you unanimously consent that I may insert them at this point in the record as part of my testimony.

Mr. ROGERS. They are from a constituent?

Mr. WILLIAMS. Yes, from a constituent.

Mr. ROGERS. The request will be granted.

(The letters are as follows:)

JACKSON, MISS., March 19, 1959.

Congressman JOHN BELL WILLIAMS,
Representative from Mississippi,
Washington, D.C.

DEAR SIR: I know you are very busy but I hope you find time to read the copy of my letter to Congressman McCulloch, regarding his "moderate civil rights bill," which I enclose. I hope he answers me. But, in any event, my letter may give you some ammunition.

The letter was written before I had seen an accurate report of the statements Mr. Rogers made regarding the purpose of the bill, as it appears in the enclosed clipping. Of course, everyone with the most elemental knowledge of law, knew that the demonstrators at Little Rock were not bound by the decree there, or in defiance of the court or of the law, etc., etc. But Mr. Rogers and the Department of Justice allowed the ignoramuses of the press, radio, and TV to rave about it until now, when he has to admit the legal truth to show the need for the proposed law.

In plain words, what Mr. Rogers proposes is that citizens who are not legally bound by the Court order shall be punished as felons, if they do not obey the order that does not bind them. This, he says, will establish a "rule of law" (?) The legal rule that the citizen is not bound by a court decree which does not include him is a safeguard against judicial tyranny, which has been a part of American, Anglo-Saxon, and Roman law for perhaps 2,000 years. It means that the court may not command the free citizen without giving him his individual right to be heard. It is this right that Mr. Rogers proposes to destroy in the name of "the rule of law."

Had Mr. Rogers been honest, he would have explained further that the citizen could not be named in the decree because he was not a party in the case, and that he could not be made a party to the case with another (school board) if the charge against him rested upon a different cause; and, finally, that the charge against the individual citizens did not confer jurisdiction upon a Federal court. "The 14th and 15th amendments operate solely on State action." "The remedy for wrongs committed by individuals on persons of African descent is through State tribunals" (subject to U.S. Supreme Court review) (*Hodges v. Headnote* 203 U.S. 1).

When a usurper sets up a tyranny over a free people, two basic powers are needed. The usurper must not only acquire power to make decrees and laws, but also the power to enforce them. When statesmen who value the freedom of the citizen over other things plan a government, they safeguard the citizen in two ways. They first place restrictions upon the power to enact laws. They then circumscribe the enforcing power to the degree they think necessary to protect the freedom of the citizen, in the event the tyranny may have been able to evade the restrictions upon the lawmaking power. The Founding Fathers limited the enforcement power of the National Government by placing the local police power solely with the States. The 13th, 14th, and 15th amendments do not change this (*Hodges v. U.S.*).

It is dishonest to say that the decree of the Court was not obeyed. The truth is that it was obeyed to the final letter of the Court's authority, and to the full limit of the Court's lawful, legal power under the Constitution. It may be true that the legal obedience to the orders of the Court at Little Rock did not bring about the social contacts that the courts had intended it should, but it is just as logical to suppose that this was because the Court was attempting to use its power in a way the founders had not intended it to be used, as it is to suppose anything else.

The truth is that even the titles to the bill are dishonest. It is not offered with purpose of preventing "obstruction of Court orders," but with the intention of extending the Court order beyond its lawful and legal scope.

Just how broad the blanket provisions of the bill are appears when it is compared with the section ruled invalid in *U.S. v. Harris*, which follows:

"Sec. 5519. If two or more persons in any State or Territory conspire or go in disguise on the highway, or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing equal protection of the laws * * *." Note that this statute is precise and states just what actions constitute the offense. It would not apply to a minister's sermon or an editor's written views as the proposed section 1509 can, if the decree is thereby impeded. Yet the Supreme Court ruled it invalid as an undue assumption of the police power reserved to the States and not justified by the delegation of power to Congress in the 14th and 15th amendments.

What Mr. Rogers wants to secure in his proposed statute is not the thing gained in the action and protected by the decree at all, but something entirely different.

When the Negro students sue for admittance to a white school, they allege that the State is denying them the privileges it extends to other citizens, contrary to the requirement of the 14th amendment. The action is against the school board who represent the State. The decree may restrain the school board from denying them admittance to the school or may even order a plan for their admittance to be put into effect, but this order or decree against the school board cannot provide means to protect the students from interference in passing to and from the school, because the school board would have no legal power to comply with such an order.

The Negro students, of course, have the right to peacefully use the public roads and streets, whether to reach the school or for any other reason. But the duty of extending the protection of the law to insure this right rests upon the local police. If the local police willfully, or through negligence, fail to extend this protection, the students could bring an action against the members of the police for refusing to extend the protection of the law; but the parties, the cause, the action, and the legal issue would all be different, even though both are brought under the 14th amendment. And an action against the individuals would lie, if they had acted unlawfully, but the cause, the action, and the legal issue would be still different, and jurisdiction would be under the State, not the Federal court.

The more the proposed measures are examined, the more the absurdities are apparent.

Please allow me to offer my apology for so long a letter, and express my hope that I have not needlessly taken up your time.

With best wishes,
Respectfully,

LOGAN R. CROUCH.

JACKSON, MISS., April 1, 1959.

Congressman JOHN BELL WILLIAMS,
Representative from Mississippi,
Washington, D.C.

DEAR SIR: Permit me to thank you for your letter of March 25 in which you say you intend to testify against the proposed "civil rights" bills, and hope to use some of the material from my letters to Congressman McCulloch. (He did not answer.) I see that Mr. Patterson and others also expect to testify. I wonder if, under these conditions, suggestions upon another objection to the so-called moderate bill might not be useful.

I refer to the blanket coverage, or extreme wide and indefinite language, of proposed section 1509, as it appears in my copy. The section seems to be an example of what might be called the contingent method of drafting statutes. Actions which are not unlawful of themselves are forbidden and made crimes, if employed to accomplish, or intending to accomplish, a forbidden result, or actions which are mere misdemeanors and made felonies for the same reason. Such statutes seem to be highly favored when law enforcement agencies make suggestions to legislators. But they are subject to very serious abuse, and Congress and the State legislatures should look very carefully before signing such blank checks of legal authority. Surely drafting the statute in this form

does not mean that it is to be relieved from pointing out precisely what it is that constitutes the offense, just as would be the case in other types of statutes.

Quoting the proposed statute, Section 1509: Obstruction of Certain Court Orders—"Whoever corruptly, or by threats or force, or by any threatening letter or communication, willfully endeavors to prevent, obstruct, impede, or interfere with due exercise of rights or the performance of duties under any order, judgment, or decree of a court of United States, which (1) directs that any person or class of persons shall be admitted to any schools, or (2) directs that any person or class of persons shall not be denied admission to any school because of race or color, or (3) approves any plan of any State or local agency the effect of which is or will be to permit any person or class of persons to be admitted to any school, shall be fined not more than \$10,000 or imprisoned not more than two years, or both."

A passage from the reconstruction statute ruled invalid in *U.S. v. Harris* (106 U.S. 629-638) which points out the forbidden result there, follows: "For the purpose of preventing or depriving, either directly or indirectly, any person or class of persons of equal protection of the laws, or of equal privileges and immunities under the laws. * * *"

Incidentally, it is plain that clauses (1) and (3) of the proposed section are so broad that they are not confined to desegregation decisions. If the board excluded students with mental or physical afflictions on the ground of public health, they would come under these clauses if their case came into Federal courts for any reason.

It would seem that a well-drafted contingent statute should do two distinct things: (1) It should first indicate what the actions are, (2) but since it is not these actions but the results accomplished or intended which constitutes the crime, the results to be forbidden should be distinctly and precisely pointed out. Otherwise, the citizen is to be punished for an undefined crime.

The proposed section completely fails to say what the forbidden results are. It merely says the due exercise of rights, or the performance of duties, and completely fails to point out what the rights or duties are, or to identify them in any way, or to refer to some other Federal statute which does do so. The statute is so incomplete without the judicial decree that one might suppose the drafters intended the decree to form a part of the statute. But, if this were to be applied to a future decree, it would mean a part of the statute was to be written by the Court, not Congress, and be delegation of legislative power to the Court, which is illegal (255 U.S. 81-87). If an old order or decree required new adjudication to ascertain what the "rights" and duties were, the statute would be ex post facto.

This second consideration is a very material one, because it is elemental that courts of equity do not adjudicate general or abstract principles of law, nor do they protect abstract or general rights, nor order general fulfillment of duties. Justice Story, in his "Equity Jurisprudence," defines an injunction as "a judicial process whereby a party is required to do a particular thing, or to refrain from doing a particular thing." Since this is true, the adjudicated "duties" to be performed are only the particular actions named in the decree, and the right adjudicated in the equity case is the particular and specific right, protected by compliance with the decree. For example, an injunction forbidding a school board from refusing to enroll a student only gives the student a right to be free from the restriction of the school board. This is the only right adjudicated in the case. The "right" would be met when the school board enrolled him and gave him instruction upon his arrival at the school. Neither it nor anyone else would be under any duty to do anything more. What other right might become available to him when he had exercised that right would be a matter of further adjudication.

This shows how far afield the statute wanders. The criminal substance is not defined by Congress, nor even does it depend upon an existing adjudication of the Court. It depends upon a new adjudication made after the supposed overt act has been committed.

One may appreciate the dilemma in which the drafters found themselves. Had they named the basic rights of "equal protection of the laws," or of "equal privileges and immunities under the laws," it would merely have been reenacting the statute ruled invalid in *Harris v. U.S.* If they had confined the section to the rights protected by the decree, and to the duties ordered in the decree, the section would have been very narrow and most of the demonstrators would not have been liable under it.

The confusion is increased by the statements of Mr. Rogers. He says the section would have enabled him to arrest those who took part in disorderly assembly at Little Rock and have them imprisoned for 2 years. But disorderly assembly is not one of the four overt actions named in the section. If mere disorderly assembly is to be transferred from a minor misdemeanor into a felony by this section, one must find it in the term "corruptly." This is very possible. The section is a companion to another section which penalized influence of witnesses and which contains this term. "Corruptly," in that section, has received a very wide construction and has even been held to apply to even an act of friendship or charity toward a needy person who might later be called as a witness.

So the section is open at both ends. An unidentified act may bring about an undescribed result, and the citizen finds himself charged with a felony.

I believe that this "moderate law" is the most objectional, because I think the more extreme bills will not be likely to pass. I also suggest that you find out what States have refused extradition requests in recent years. Members from such States can hardly insist that other States are absolutely bound to obey "the law of the land."

Respectfully,

LOGAN R. CROUCH.

Mr. WILLIAMS. Title 2 of the administration bill, Mr. Chairman, proposes that it be made a Federal crime to cross a State line to avoid prosecution, custody, or confinement for using explosives or fire to damage or destroy religious and educational facilities. That is absolutely unnecessary. The mutual extradition statutes have recently been upheld by the U.S. Supreme Court.

The last paragraph of section 201 is patently unconstitutional, and I say that categorically. The sixth amendment to the Constitution states, and I quote:

* * * the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed.

There is nothing in the Constitution that gives the Congress the right or the power to change that venue so explicitly set out in the sixth amendment to the Constitution. If title II were a part of the existing statutes, obviously, the crime would have been committed when he crossed the line of the State in which the bombing was committed; therefore, under the sixth amendment, trial must be held in that State.

This paragraph is at variance with section 1073, which is our general flight statute, wherein it is stated that "violations of this section may be prosecuted only in the Federal judicial district in which the original crime was alleged to have been committed or in which the person was held in custody or confinement." But another judicial district—"where apprehended"—is added to title II of this bill. If the committee reports this bill, I trust that a part of line 24 and all of line 25 will be struck out so as to conform to the Constitution.

With respect to the entire section, I see no need in adding section 1074. Section 1073 could easily be amended by adding to the crimes enumerated therein the crime of "willful destruction or damaging of any building or structure."

That has already been covered by Attorney General Patterson from Mississippi in previous testimony.

Title III of this bill requires the preservation of voting records for a period of 3 years and, also, provides that the records be made available to the Federal district attorney, either at the election official's office or at the Federal attorney's office.

Here, again, the bill requires a great deal of attention and before this bill is reported I hope it will be amended to have the records made available at the place they are normally retained. Mississippi County officials must operate on a very slim budget and they do not have the funds or the time to be transporting records to Jackson or Oxford where court meets. On the other hand, the Civil Rights Division has ample funds and attorneys.

In fiscal year 1959, the Civil Rights Division will spend \$472,000. The President has requested \$488,000 for 1960.

Now let's take a look at what this Civil Rights Commission has accomplished for that \$470,000 we have spent on it. Bear in mind that they had an opportunity to review all of these complaints that have accumulated over the years prior to the enactment of the Civil Rights Act of 1957.

During 1958, according to their own reports, civil rights lawyers reviewed 19 complaints that Negroes were deprived of the right to vote because of racial discrimination. Nineteen. That is what they tell us themselves. Seven of these cases were closed out because of insufficient evidence. That leaves 11 cases. What happened to them? The others still are under what they call active consideration. Only one suit was brought in court and that was the case, the celebrated case in Terrill County, Ga. You gentlemen well know the result of that case. Early this very week the court, considering that case, ruled that the section of the Civil Rights Act of 1957 under which it was brought was unconstitutional and of no force and effect.

Summing it all up, Mr. Chairman, what has been the record of the Civil Rights Division of the Department of Justice? Absolutely zero, by their own admission. That is how one-half a million dollars of the American people's money was spent.

Now, instead of giving this Division the unconstitutional authority to shuffle poll tax receipts and registration forms, compile more statistics (usurping the Census Bureau's prerogatives) and harass State and county officials, I suggest you let the thing die and be buried without benefit of clergy.

It is fundamental, that, under our constitutional system, the qualification of voters is a matter committed exclusively to the States. The Supreme Court has spoken on the subject in language as clear as it is decisive. Witness what it said, for example in *Pope v. Williams*, 1904, 193 U.S. 621:

The privilege to vote in any State is not given by the Federal Constitution, or by any of its amendments. It is not a privilege springing from citizenship of the United States.

They cite there *Minor v. Happersett*, 21 Wall. 162.

It may not be refused on account of race, color, or previous condition of servitude, but it does not follow from mere citizenship of the United States. In other words, the privilege to vote in a State is within the jurisdiction of the State itself, to be exercised as the State may direct, and upon such terms as to it may seem proper. The State might provide that persons of foreign birth could vote without being naturalized, and, as stated by Mr. Chief Justice Waite in *Minor v. Happersett*, *supra*, such persons were allowed to vote in several of the States upon having declared their intentions to become citizens of the United States. Some States permit women to vote; others refuse them that privilege. A State, so far as the Federal Constitution is concerned, might provide by its own constitution and laws that none but native-born citizens should be permitted to vote, as the Federal Constitution does not confer the right of

suffrage upon anyone, and the conditions under which that right is to be exercised are matters for the States alone to prescribe, subject to the conditions of the Federal Constitution, already stated; * * * The question whether the conditions prescribed by the State might be regarded by others as reasonable or unreasonable is not a Federal one * * *.

* * * The right of a State to legislate upon the subject of the elective franchise as to it may seem good, subject to the conditions already stated, being, as we believe, unassailable, we think it plain that the statute in question violates no right protected by the Federal Constitution.

Now, like language has been used by the court in numerous other cases.

On February 13, 1957, one Clarence Mitchell, a professional agitator, testified before this subcommittee while civil rights bills were under consideration, and on page 1026 of the committee's printed hearings made this statement: "I wish also to offer other specific examples of persons denied the right to vote in Mississippi." He then placed in the record several affidavits, most of them from residents of Jefferson Davis County, Miss.

Several of the individuals who filed affidavits with the committee had an opportunity to prove, before a special three-judge Federal court, that they were denied registration because of their race, in a case in which the Mississippi official was defended by Mississippi's own distinguished attorney general who just appeared before you. This was the case that Clarence Mitchell was hanging his hat on in 1957. In the case styled *Darby v. Daniel*, Darby, a self-styled Negro preacher, brought suit against Daniel, the circuit clerk and registrar of Jefferson Davis County, Miss.

Darby instigated a Federal investigation of registration practices in Jefferson Davis County by sending a letter to President Eisenhower in early 1956—a letter which admittedly Darby neither wrote or signed, as was confessed by his attorney. The NAACP, of course, provides little services like that. From the legal fund the NAACP paid Darby's attorneys and the expenses of the litigation, and that is a tax-exempt organization. They sent a special high-powered lawyer from New York State down to argue Darby's case in court. The court's unanimous opinion dismissing Darby's complaint was not even appealed; obviously, the NAACP felt that even the U.S. Supreme Court would not accept their spurious contentions in this case.

Mr. Chairman, may I say that this was the first case in which the NAACP had received a rebuff by the Federal courts in the last 10 years that I can remember. It was given a great deal of publicity in the northern press when the charges were made by this Negro, but when the charges were found to be utterly spurious and without any foundation in fact, it was censored out of most of the northern press.

Mr. McCULLOCH. Mr. Chairman, might I interrupt there? Was there a written decision in that case?

Mr. WILLIAMS. Yes, sir; and if the committee would permit me, I would like to have this included at this point as part of my remarks.

Mr. ROGERS. Do you want to file it or do you want it put in as part of your statement?

Mr. WILLIAMS. Mr. Chairman, I would rather not bother with it than to file it, for the reason that this is one of the finest documents on Americanism and American constitutional law that I have ever seen, and I hope that the committee will permit this decision, written

by three distinguished district court judges to be included as part of my testimony.

Mr. ROGERS. It can be included as part of your testimony and inserted in the record in any place that you want to.

Mr. WILLIAMS. Thank you so much. I would like to have it inserted at this point, if permitted.

(The document follows:)

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
MISSISSIPPI, JACKSON DIVISION

Civil Action No. 2748

H. D. DARBY on behalf of himself and others similarly situated, plaintiffs
v.

JAMES DANIEL, Circuit Clerk of Jefferson Davis County, Miss., and JOE T.
PATTERSON, Attorney General of the State of Mississippi, defendants

Before CAMERON, Circuit Judge, and MIZE and CLAYTON, District Judges.

CAMERON, Circuit Judge: The case before us, with some of the facts, is thus stated in plaintiff's brief: "This is an action for a declaratory judgment and injunction brought by plaintiff on behalf of himself and others similarly situated. The gravamen of plaintiff's complaint is that he and other Negro citizens of Jefferson Davis County, Mississippi have been denied the right to register in order that they might vote, solely because of their race and color, through the enforcement of a policy of discrimination against Negro Voters, the enforcement of unconstitutional voting requirements, and the discriminatory administration of valid requirements. The plaintiff also seeks to enjoin enforcement of a state statute which makes it a crime, punishable by imprisonment for one year, for him to accept financial and legal assistance in the prosecution of this action and for his attorneys and others to give such assistance."

"The plaintiff in this case is an adult Negro citizen of the United States and of the State of Mississippi, residing in Prentiss, Jefferson Davis County, Mississippi since 1947. He is not an idiot, an insane person, or an Indian who is not taxed, and is more than twenty-one years of age. His occupation is that of a minister of the Gospel. He has never been convicted of any crime enumerated in the Mississippi Constitution as grounds for disqualification as a voter. He has paid his poll tax for the years 1956 and 1957. He was a duly qualified and registered voter of Jefferson Davis County prior to January 1, 1954, and exercised his right to vote in various elections held in the county between 1950 and 1955, having registered for the first time in the early part of 1950

"In 1954 the Legislature of the State of Mississippi proposed that Section 244 of the Mississippi Constitution of 1890 be amended, and after the proposed amendment was ratified by a vote of the electorate, it became law in 1955." Defendant Daniel was and is Circuit Clerk and Registrar of Jefferson Davis County and will be referred to as defendant unless otherwise noted.

The qualifications of Electors are set forth in Article 12 of the Mississippi Constitution of 1890 as amended, titled "Franchise," and the article embraces Sections 240-253, inclusive.

The Sections of the Article, other than Section 244 which is challenged by plaintiff, grant the right to vote to inhabitants of the state, except idiots, insane persons and Indians not taxed, who are citizens of the United States, twenty-one years old or over, with certain residence requirements, who have duly registered as provided in the article and who have never been convicted of certain listed crimes and who have paid all poll taxes legally required of them before February 1st of the year in which they offer to vote. Section 249 provides, "And registration under the Constitution and laws of this State by the proper officers of this State is hereby declared to be an essential and necessary qualification to vote at any and all elections."

Section 244 of Article 12, prior to the amendment attacked, was in these words:

"§ 244. On and after the first day of January, A.D. 1892, every elector shall, in addition to the foregoing qualifications, be able to read any section of the Constitution of this state; or he shall be able to understand the same when

read to him, or give a reasonable interpretation thereof. A new registration shall be made before the next ensuing election after January the first, A.D. 1892."

Amended Section 244¹ reads as follows in its pertinent portions:

"Section 244. Every elector shall, in addition to the foregoing qualifications be able to read and write any section of the Constitution of this State and give a reasonable interpretation thereof to the county registrar. He shall demonstrate to the county registrar a reasonable understanding of the duties and obligations of citizenship under a constitutional form of government."

Following the quoted language the amended section goes on to provide that a person applying to register shall make a sworn written application on a form to be prescribed by the State Board of Election Commissioners, and concludes with these words: "Any new or additional qualifications herein imposed shall not be required of any person who was a duly registered and qualified elector of this state prior to January 1, 1954. The Legislature shall have the power to enforce the provisions of this section by appropriate legislation."

In February, 1956 the Board of Supervisors of Jefferson Davis County ordered a new registration and due notice thereof was given by publication as required by law. This new registration was in line with the practice which had been followed in the county for a number of years, new registrations having been had in the years 1906, 1923, 1934 and 1949.

Defendant Daniel first became Circuit Clerk and Registrar of Jefferson Davis County January 1, 1956. Without dispute and based upon his opinion that, since a new registration had been ordered and forms had been sent to him by the State Election Commissioners, he was so obligated, he began the practice of requiring all applicants, regardless of color, to take the examination provided by the amendment and covered by the questionnaire, which policy he pursued until about October 15, 1956. Plaintiff Darby first entered his office to register on June 29, 1956, and defendant Daniel handed him the questionnaire to be completed pursuant to the custom then universally followed by him. No discussion was had between plaintiff and defendant. Plaintiff completed a part of the written examination and signed his name and left.

He had consulted the attorney now representing him and had written a letter of complaint to the President of the United States some weeks before that, which resulted in an investigation of defendant Daniel being made by the Federal Bureau of Investigation. About October 1, 1956 defendant Daniel received a letter from the United States Attorney in Jackson, Mississippi requesting that Daniel come to his office for conference. He responded to the request, going in company with the county attorney to the office of the United States Attorney. There he was advised that the Department of Justice took the position that persons who, like plaintiff Darby, had been registered prior to January 1, 1954 were required to take only the oral examination covering the qualifications as set forth in the original Section 244 of Article 12 of the Mississippi Constitution. Daniel left the United States Attorney and went to the Attorney General of Mississippi who advised him in writing October 12, 1956, that no person registered prior to January 1, 1954 was required to take the written examination provided by the amendment. Thereafter, Daniel pursued the policy of giving all applicants of Darby's class the option to take the oral examination provided by the original section or the written examination provided by the amendment.

About November 2, 1956 plaintiff Darby again presented himself for registration and was given the oral examination. He did not pass in the opinion of Daniel and was so advised. Neither Darby nor Daniel remembered what section of the Constitution Darby was called upon to interpret. About June 8, 1957, Darby came to Daniel's office again to register and was given the oral examination, and again failed to pass. A short time thereafter the F.B.I. made a further examination into Daniel's operation of his office in which Daniel explained freely what happened.

On June 22, 1957, plaintiff Darby again presented himself to defendant Daniel, this time requesting that he be given the written examination as provided by the amendment. Without dispute, plaintiff followed this course on the advice of his attorney, whom he had first consulted more than a year before. He was given

¹ In 1954 the Legislature of Mississippi proposed that section 244 of the Constitution of 1890 be amended, and after the proposed amendment was ratified by a vote of the people it became a part of the Constitution in 1955.

the written examination on the forms furnished to Daniel by the state officials, and again Daniel ruled that he had not qualified for registration.²

Plaintiff Darby, appealed, as provided by law, from the ruling of defendant Daniel rejecting his written application (he had not appealed from the other three rejections), and the evidence shows that in so doing he was guided by one of his attorneys of record who had been employed by the N.A.A.C.P. Legal Defense and Educational Fund. His attorney filed with the Registrar a writing bearing the heading "Appellant's Contentions."³ Plaintiff Darby and his attorney appeared at the office of Daniel on October 7, 1957, but there was no meeting of the Commissioners scheduled or held at that time.⁴ Said plaintiff and his attorney were advised that the Commissioners would meet at the Registrar's office on the Tuesday after the third Monday in March, 1958; plaintiff Darby testified that Daniel told them of a March meeting. No provision is made for notice to persons desiring to present contests of the actions of the Registrar and we do not find that defendant Daniel made any agreement to give any notice to plaintiff or that such an agreement, if made, would have any legal effect. The appeal, apparently begun as a test of the provisions of the Constitution and Statutes here under attack, was not prosecuted, but this civil action was filed four days before the Election Commissioners met in Jefferson Davis County. The appeal is still pending before them.

Other portions of the testimony will be referred to under the discussion of the several points raised by the parties.

From the written contentions so filed on the appeal, the averments of the Complaint and plaintiff's brief it appears that the attack on the Mississippi Constitution and implementing statutes is based upon three grounds: that Section 244 is unconstitutional and void on its face because it bestows upon the Registrar "an uncontrolled discretion to determine who is able to interpret the Constitution of . . . Mississippi" and who is able to demonstrate an under-

² After the Court had concluded the hearing of this action July 22-25, 1958, Rutha Dillon presented a "Motion to Intervene" served and filed Sept. 16, 1958, setting forth that she had testified as a witness for plaintiff Darby and that her interest "may not be adequately represented by plaintiff and applicant may be bound by a judgment in this action." The application was filed by the attorneys already representing plaintiff Darby and with it was filed a memorandum brief in which she claimed that she was filing the application under Rule 20(a) and Rule 24(b)(2), F.R.C.P. Her application asked that she be permitted to intervene upon her testimony already given and upon the testimony introduced at the hearing. Her desire to intervene was grounded on her apprehension that plaintiff Darby might not represent her inasmuch as she had not registered prior to Jan. 1, 1954, whereas Darby had registered prior to that time and had requested and taken the written examination provided by the amendment to sec. 244, although not required so to do.

The defendants resisted the requested intervention, taking the position that the application came too late and that plaintiff Darby, having volunteered to take an examination he was not required to take, was not in position to maintain the action brought by him. The amendment provides that Darby should not be "required" to submit to its terms, but contains no prohibition against his voluntarily doing so. Both he and defendant Daniel proceeded in the written examination before us in obedience to the terms of the amendment, and we do not pause to resolve this question, arising as it does after all of the briefs have been submitted and much study given to the fundamental issues involved.

We see no harm to ensue from granting the application to intervene and have entered an order permitting the requested intervention upon the terms set forth. The intervenor will be referred to hereafter as a plaintiff.

³ This document set forth that plaintiff Darby had appealed to the Board of Commissioners within five days from the refusal of Defendant Daniel to register him; that Section 244 of the Mississippi Constitution as amended "is unconstitutional and void on its face since it bestows upon the registrar of voters an uncontrolled discretion to determine who is able to interpret the Constitution of the State of Mississippi and who is able to demonstrate an understanding of the duties and obligations of citizenship in a democratic form of government;" said allegation being applied also to the Mississippi statutes implementing the constitutional provision. The document further set up that the constitutional and statutory provisions "are unconstitutional and void because the purpose of said provisions was to enable the registrar of voters to discriminate against otherwise qualified Negroes, solely because of their race and color," and that said provisions were being administered by defendant Daniel "in such a manner as to discriminate against Reverend H. B. Darby and other Negroes otherwise qualified, solely because of their race and color." The document further contended that since plaintiff Darby had registered prior to January 1, 1954, the new provisions were not applicable to him.

⁴ This appearance by plaintiff Darby and his attorney resulted, no doubt, from the language of Section 3226 of the Mississippi Code of 1942, providing that the Commissioners should meet "on the first Monday in October after appointment." The Commissioners had been appointed in 1956 and had held the October meeting that year. No provision being made in that section for meeting in any year except that of their appointment, the Mississippi Legislature in 1938 passed a statute appearing as Section 3240 of the Mississippi Code of 1942 providing that: "On the Tuesday after the third Monday in March, 1939, A.D. and every year thereafter the commissioners of election shall meet at the office of the registrar . . ." [Emphasis added.]

standing of the duties of citizenship; that the section is unconstitutional and void because the purpose of said provision was to enable the registrars to "discriminate against otherwise qualified Negroes," and that said section is being administered "in such a manner as to discriminate against Reverend H. B. Darby and other Negroes otherwise qualified, solely because of their race and color."

The complaint specifies that the uncontrolled discretion referred to results from the amendment's vague and uncertain language "which fails to set up a standard of reasonableness capable of objective measurement." The precise prayer of the complaint asks an injunction "restraining defendant from enforcing those parts of said constitutional and statutory provisions which require an elector to give to defendant a 'reasonable interpretation' of a provision of the Constitution of the State of Mississippi and which require that an elector demonstrate to defendant a 'reasonable' understanding of the duties and obligations of citizens under a constitutional form of government." The allegations of unconstitutionality are predicated upon the due process clause of the Fourteenth Amendment and the provisions of the Fifteenth Amendment.

I

(1) Any consideration of the constitutionality of the challenged portions of this amendment begins with the fundamental fact that, under our constitutional system, the qualification of voters is a matter committed exclusively to the States. The Supreme Court has spoken on the subject in language as clear as it is decisive. Witness, for example, what it said in *Pope v. Williams*, 1904, 193 U.S. 621:⁶

"The privilege to vote in any State is not given by the Federal Constitution, or by any of its amendments. It is not a privilege springing from citizenship of the United States. Minor v. Happersett, 21 Wall. 162. It may not be refused on account of race, color or previous condition of servitude, but it does not follow from mere citizenship of the United States. In other words, the privilege to vote in a State is within the jurisdiction of the State itself, to be exercised as the State may direct, and upon such terms as to it may seem proper . . . The State might provide that persons of foreign birth could vote without being naturalized, and, as stated by Mr. Chief Justice Waite in Minor v. Happersett, supra such persons were allowed to vote in several of the States upon having declared their intentions to become citizens of the United States. Some States permit women to vote; others refuse them that privilege. A State, so far as the Federal Constitution is concerned, might provide by its own constitution and laws that none but native-born citizens should be permitted to vote, as the Federal Constitution does not confer the right of suffrage upon any one, and the conditions under which that right is to be exercised are matters for the States alone to prescribe, subject to the conditions of the Federal Constitution, already stated; . . . The question whether the conditions prescribed by the State might be regarded by others as reasonable or unreasonable is not a Federal one . . ."

" . . . The right of a State to legislate upon the subject of the elective franchise as to it may seem good, subject to the conditions already stated, being, as we believe, unassailable, we think it plain that the statute in question violates no right protected by the Federal Constitution.

"The reasons which may have impelled the state legislature to enact the statute in question were matters entirely for its consideration, and this court has no concern with them." (Pp. 632-634.) [Emphasis added.]

Like language was used by the Court in a case so much relied upon by plaintiffs, *Guinn et al v. United States*, 1915, 238 U.S. 347. In striking down the Grandfather Clause of the Oklahoma Constitution the Court fixed its eyes upon certain principles as the lodestar which should furnish the light by which it would be guided:

" * * It [the United States] says state power to provide for suffrage is not disputed, although, of course, the authority of the Fifteenth Amendment and the limit on that power which it imposes is insisted upon. Hence, no assertion denying the right of a State to exert judgment and discretion in fixing the qualification of suffrage is advanced and no right to question the motive of the State in establishing a standard as to such subjects under such circumstances*

⁶ The Court was then composed of Chief Justice Fuller and Associate Justices Harlan, Brewer, Brown, White, Peckham, McKenna, Holmes and Day, and the decision was unanimous.

or to review or supervise the same is relied upon and no power to destroy an otherwise valid exertion of authority upon the mere ultimate operation of the power exercised is asserted. And applying these principles to the very case in hand the argument of the Government in substance says: No question is raised by the Government concerning the validity of the literacy test provided for in the amendment under consideration as an independent standard since the conclusion is plain that that test rests on the exercise of state judgment and therefore cannot be here assailed either by disregarding the State's power to judge on the subject or by testing its motive in enacting the provision. * * * (Pp. 359-360.)

"Beyond doubt the Amendment does not take away from the State governments in a general sense the power over suffrage which has belonged to those governments from the beginning and without the possession of which power the whole fabric upon which the division of State and national authority under the Constitution and the organization of both governments rest would be without support and both the authority of the nation and the State would fall to the ground. In fact, the very command of the Amendment recognizes the possession of the general power by the State, since the Amendment seeks to regulate its exercise as to the particular subject with which it deals." (P. 362.) [Emphasis added.]⁶

(2) Plaintiffs base their argument that the constitutional provisions under attack are void on their face chiefly upon four Supreme Court decisions: *Yick Wo v. Hopkins, Sheriff*, 1886, 118 U.S. 356; *Guinn et al v. United States, supra*; *Lane v. Wilson*, 1939, 307 U.S. 268; and *Schnell et al v. Davis*, 1949, 336 U.S. 933. Analysis of those cases will reveal that they do not apply to the constitutional and statutory provisions before us.

Yick Wo involved the constitutionality, as administered by the Board of Supervisors, of an ordinance of the City and County of San Francisco making it unlawful to establish or maintain a laundry without the consent of the board of supervisors unless such laundry "be located in a building constructed either of brick or stone." Two Chinese Nationals were convicted of violating the ordinances and the two cases wherein they sought habeas corpus were consolidated and decided by the Supreme Court. One was *Yick Wo's* petition for habeas corpus denied by the Supreme Court of California, and the other a like petition by *Wo Lee*, on practically identical facts, denied by the Circuit Court of the United States for the San Francisco District. The facts in both cases were without dispute.

Of the 320 laundries in San Francisco, about 310 were constructed of wood, and about 240 were owned and conducted by subjects of China. The board of supervisors followed the policy of issuing permits for laundry operation to all Caucasians and of denying it to all Chinese even though in the cases presented to the court the premises of the Chinese had been inspected and approved by the fire wardens, the health officers, and other city officials. The Supreme Court of California thought that the statute was a proper exercise of the police power, and the United States Circuit Court, in the other case, thought otherwise, expressing the opinion that the ordinances as administered violated provisions of the Fourteenth Amendment and a treaty between the United States and China. In deference to the decision of the Supreme Court of California, however, and contrary to its own opinion, the Circuit Court discharged the habeas corpus writ as the Supreme Court of California had done.

The Supreme Court rejected the decision of the California Court, holding that the ordinances "seem intended to confer, and actually do confer, not a discretion to be exercised upon a consideration of the circumstances of each case but a naked and arbitrary power to give or withhold consent, not only as to places, but as to persons. The power given to them is not confided to their discretion in the legal sense of that term, but is granted to their mere will. It is purely arbitrary, and acknowledges neither guidance nor restraint." (Pp. 366-367.) The final conclusion of the Supreme Court is epitomized in graphic words

⁶ To the same effect see *In Re Slaughterhouse Cases*, 1873, 16 Wall. 36; *Minor v. Happersett*, 1874, 21 Wall. 162, 88 U.S. 162; *United States v. Cruikshank*, 1875, 92 U.S. 542; *United States v. Reese*, 1875, 92 U.S. 214; *State of Virginia v. Rives*, 1879, 100 U.S. 313; *Snowden v. Hughes*, 1944, 321 U.S. 1. And cf. *McPherson v. Blacker*, 1892, 146 U.S. 1, 35: "The question before us is not one of policy but of power . . ." and Annotation 153 A.L.R. pp. 1066 et seq.

copied in the margin.⁷ The quotation from the Supreme Court's opinion as applied to the facts there refutes the argument the case is called upon to furnish here. The case will be discussed further in our analysis of *Schnell, infra*. The Constitution and statutes of Mississippi do not contain any license for the exercise of arbitrary power Plaintiffs are entitled to relief here if they can show the discrimination which was admitted there.

Guinn brought in question the constitutionality of the "Grandfather Clause" inserted by amendment into the Constitution of Oklahoma. That amendment established literacy tests, but exempted from such tests every person "who was on January 1, 1866, or at any time prior thereto, entitled to vote under any form of government, or who at that time resided in some foreign nation. . . ." The exemption was made to apply also to the lineal descendants of such persons. The court held that the language of the Oklahoma amendment was indisputably aimed directly at the Fifteenth Amendment with palpable intent of destroying the effect of that Amendment. Its course of reasoning ran thus:

The Fifteenth Amendment provided that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." The Oklahoma Constitution fixed a date, January 1, 1866, as the crucial date, at which time the Fifteenth Amendment had not been passed and no Negro possessed the right of suffrage. By its terms, therefore, the exemption from the literacy test was denied to all Negroes, and was vouchsafed to all others. This being true, the Oklahoma amendment—and the Supreme Court so stated—could have no other purpose, under its very language, than to abridge the right of Negroes to vote by requiring them to pass a literacy test from which all non-Negroes were exempted.

Lane v. Wilson dealt with an Act of the Oklahoma Legislature passed at a special session immediately following the invalidation of the constitutional amendment in *Guinn*, which Act the Supreme Court decided was directed solely at a circumvention of the *Guinn* decision. The scope and reach of *Lane v. Wilson* can best be evaluated by quotations from the Supreme Court's opinion set forth in the margin.⁸

It is clear that the Supreme Court thought that it was impossible to construe the Oklahoma legislation as having any efficacy which did not perpetuate as a favored class the white citizens, who were the only ones permitted to vote in 1914,⁹ and to lay a heavy burden on Negroes aspiring to register under discrimi-

⁷ (Pp. 373-374.) "Though the law itself be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution."

"The present cases, as shown by the facts disclosed in the record, are within this class. It appears that both petitioners have complied with every requisite, deemed by the law or by the public officers charged with its administration. . . . No reason whatever, except the will of the supervisors, is assigned why they should not be permitted to carry on, in the accustomed manner, their harmless and useful occupation, on which they depend for a livelihood. And while this consent of the supervisors is withheld from them and from two hundred others who have also petitioned, all of whom happen to be Chinese subjects, eighty others, not Chinese subjects, are permitted to carry on the same business under similar conditions. The fact of this discrimination is admitted. No reason for it is shown, and the conclusion cannot be resisted, that no reason for it exists except hostility to the race and nationality to which the petitioners belong, and which in the eye of the law is not justified. The discrimination is, therefore, illegal, and the public administration which enforces it is a denial of the equal protection of the laws and a violation of the Fourteenth Amendment of the Constitution. . . ." [Emphasis added.]

⁸ "Those who had voted in the general election of 1914, automatically remained qualified voters. The new registration requirements affected only others. . . . The crux of the present controversy is the validity of this registration scheme, with its dividing line between white citizens who had voted under the 'grandfather clause' immunity prior to *Guinn v. United States*, supra, and citizens who were outside it, and the not more than twelve days as the normal period of registration for the theretofore proscribed class." (P. 271.)

"When in *Guinn v. United States*, supra, the Oklahoma 'grandfather clause' was found violative of the Fifteenth Amendment, Oklahoma was confronted with the serious task of devising a new registration system consonant with her own political ideas but also consistent with the federal Constitution. We are compelled to conclude, however reluctantly, that the legislation of 1916 partakes too much of the infirmity of the 'grandfather clause' to be able to survive." (P. 275.)

"But this registration was held under the statute which was condemned in the *Guinn* case. Unfair discrimination was thus retained by automatically granting voting privileges for life to the white citizens whom the constitutional 'grandfather clause' had sheltered while subjecting colored citizens to a new burden." (P. 276.) [Emphasis added.]

⁹ In its decision of *Lane v. Wilson* the Circuit Court of Appeals for the Tenth Circuit, 98 F. 2d 980, 984, stated: "It may be, and we take it as true, that inasmuch as the so-called grandfather clause in the Constitution of Oklahoma had not been declared void as violative of the Fifteenth Amendment until 1915 no Negroes voted at the 1914 election . . ."

natory requirements which they were forced to meet only because they had been wrongfully excluded from voting right under the unconstitutional provisions of the Grandfather Clause.

The last case relied upon by plaintiffs is the per curiam opinion of the Supreme Court in *Schnell et al. v. Davis et al.*, which reads as follows:

"The judgment is affirmed. *Lane v. Wilson*, 307 U.S. 268; *Yick Wo v. Hopkins*, 118 U.S. 356. Cf. *Williams v. Mississippi*, 170 U.S. 213 * * *"

A three-judge District Court for the Southern District of Alabama had written a lengthy opinion and had based its decision upon a number of grounds including a finding that the Boswell Amendment there under consideration "has, in fact, been arbitrarily used for the purpose of excluding Negro applicants for the franchise, while white applicants with comparable qualifications were being accepted."¹⁰ From the concluding words of the District Court's opinion¹¹ it appears that the judgment it entered was to grant an injunction in favor of *Schnell et al.* The Supreme Court did nothing more than to affirm that judgment, not indicating which of the several grounds it adopted as the basis for the affirmance.

Viewed most favorably to the contentions of the plaintiffs here, it would be assumed that the Supreme Court decided that the Boswell Amendment placed final and arbitrary powers in the hands of the board of registrars, which power the board had in fact exercised arbitrarily in favor of white applicants and against Negro applicants. As shown above, this was the ground common to *Lane* and *Yick Wo*, the two cases forming the predicate for the Supreme Court's action in *Schnell*.

It is important to note that the Supreme Court, after citing these two cases, directed a comparison with *Williams v. Mississippi*, 1898, 170 U.S. 213. There the literacy tests of the Mississippi Constitution of 1890 were upheld and, as demonstrated infra, the Court held categorically that the doctrine of *Yick Wo* did not apply. The clear meaning of the reference to the three cases by the Supreme Court was that in contrast with the valid requirements of the Mississippi Constitution, the Boswell Amendment involved in *Schnell* came under the condemnation of the two cases wherein the Supreme Court had pointed out specifically that arbitrary power granted and discriminatorily used could not stand the test of constitutionality.

II

(1) In considering whether amended Section 244 is unconstitutional on its face, it is important to bear in mind that plaintiffs concede that the voting provisions of the Constitution of 1890 were valid. They could not, of course, do less because the Supreme Court of the United States specifically approved them in *Williams v. Mississippi*, 1898, 170 U.S. 213.¹²

Sections 241, 242 and 244 of the Constitution of 1890 were attacked by motion (20 So. at 840) as being violative of the due process and equal protection clauses of the Fourteenth Amendment. The motion was grounded on the allegation that the constitutional convention of Mississippi was composed of 134 members, of which only one was a Negro; "that the purpose and object of said constitution was to disqualify by reason of their color, race and previous condition of servitude, 190,000 Negro voters." It was contended before the Supreme Court, 170 U.S. at p. 215, that, "under prior laws, there were 190,000 colored voters and 69,000 white voters;" and "that Sections 241, 242 and 244 of the constitution of this state are in conflict with the Fourteenth Amendment to the constitution of the United States, because they vest in administrative officers the power to discriminate against citizens by reason of their color; and that the purpose of so investing such officers with such power was intended by the framers of the

¹⁰ Fundamental factual differences differentiate *Schnell* from the case before us. The Alabama amendment invested the registrars with rigid and arbitrary powers, not requiring that their judgment be "reasonable." It contained no requirement that the examination be in writing or that a record be made of it so that it might be subjected to review. The decision makes no mention of any right of appeal from the decision of the registrars. State agencies took active leadership in campaigning for its adoption, stating openly in writing that the object of the amendment was to curtail Negro registration. As applied, the tests were not required of whites, only Negroes being subjected to them. Not one of these criticisms applies to the Mississippi amendment under the facts presented to us.

¹¹ 51 F. Supp. 881.

¹² The Supreme Court there affirmed the decision of the Supreme Court of Mississippi in *Williams v. State*, 1896, 20 So. 1023, in which case a memorandum opinion only was written. That memorandum opinion referred to the decision of Chief Justice Cooper in the companion case of *Dixon v. State*, 20 So. 839; and consideration of the *Dixon* decision is necessary to an understanding of the effect of the Supreme Court's decision in *Williams*.

state constitution, to the end that it should be used to discriminate against the negroes of the state." [Emphasis added.] The contentions there made bear a marked resemblance to those now made before us. Responding to them the Supreme Court of Mississippi said (20 So. 840-841):

"At this point in the investigation it is sufficient to say that we have no power to investigate or decide upon the private, individual purposes of those who framed the constitution, the political or social complexion of the body of the convention . . . *We can deal only with the perfected work—the written constitution adopted and put in operation by the convention.* . . .

"We find nothing in the constitutional provisions challenged by the appellant which discriminate against any citizen by reason of his race, color, or previous conditions of servitude. . . . All these provisions, if fairly and impartially administered, apply with equal force to the individual white and negro citizen. It may be, and unquestionably is, true that, so administered, their operation will be to exclude from the exercise of the elective franchise a greater proportionate number of colored than of white persons. *But this is not because one is white and the other is colored, but, because of superior advantages and circumstances possessed by the one race over the other, a greater number of the more fortunate race is found to possess the qualifications which the framers of the constitution deemed essential for the exercise of the elective franchise.*" [Emphasis added.]

Affirming the decision of the Mississippi Supreme Court in *Williams*, the Supreme Court of the United States considered at length *Yick Wo v. Hopkins*, *supra*, more than half of the opinion being devoted to a study of and quotations from that case. The Court quoted what it had said in *Yick Wo*, which quotation—set forth *supra*—is the portion of *Yick Wo* so vigorously urged by plaintiffs before us. But concerning said quoted language the Supreme Court of the United States, after stating "We do not think that this case is brought within the ruling in *Yick Wo v. Hopkins*," 170 U.S. at 225, said:

"This comment is not applicable to the constitution of Mississippi and its statutes. They do not on their face discriminate between the races, and it has not been shown that their actual administration was evil, only that evil was possible under them."

The Court, in that decision, quoted and discussed all of the important provisions of the Mississippi Constitution governing the right to vote, and also quoted the contention there made that the Constitution vested in the registrar "the full power. . . to ask all sorts of vain, impertinent questions, and . . . reject whomsoever he chooses, and register whomsoever he chooses, for he is vested by the constitution with that power. Under section 244 it is left with the administrative officer to determine whether the applicant *reads, understands or interprets* the section of the constitution designated. The officer is the sole judge of the examination of the applicant, and even though the applicant be qualified, it is left with the officer to so determine; and the said officer can refuse him registration." [Emphasis supplied.]

It is of determinant significance that the Supreme Court in *Williams* rejected all of those contentions and upheld the constitutionality of Section 244 as originally written.

(2) It is pertinent to observe at this point that plaintiffs, having thus conceded the validity of the original 244, make the identical argument that amended 244 is unconstitutional because (a) its language is so vague and indefinite as to furnish no ascertainable standard of action, and (b) it invests the registrar with arbitrary and uncontrolled powers.

(a) The obvious answer to the ground first stated is that the words used in amended Section 244 are the identical terms used in the 1890 Constitution—"read," "reasonable," "interpret," "understand." Every one of those words was used in the original section which plaintiffs find no difficulty in comprehending. The language above quoted shows that the identical contention was made by *Williams* in his appeal and was rejected by the Supreme Court. It is further clear that the responsible state official was invested with exactly the same powers under the Constitution of 1890 that he has under the amended section.

It is plain that what plaintiffs complain of is, not that the words used in the amendment are vague and indefinite, but that the literacy test imposed by the amendment is slightly more onerous and exacting than that of the original. They complain that the amendment requires an applicant for registration to read and write a section of the Constitution. Certainly the original require-

ment was more rigorous at the time of its enactment than was the amendment when it was adopted.

The Constitution of 1890 was passed when Negroes had just emerged from complete illiteracy—cf. the Supreme Court's language in *Brown v. Board of Education*, 1954, 347 U.S. 483, 490 "Education of Negroes was almost non-existent and practically all of the race were illiterate"—and when both Negroes and whites had passed through two decades of the tragedy of Reconstruction when efforts at education were close to the vanishing point. After six decades of an increasingly competent educational system¹³ it seems moderate indeed for the electorate to lay upon itself the obligation of being able to read and write the basic law of the Commonwealth. Understanding and interpretation formed a part of the original Section 244 and they seem all the more proper in this time of general enlightenment.

The same can well be said of the sentence added by the amendment requiring an applicant to demonstrate "a reasonable understanding of the duties and obligations of citizenship under a constitutional form of government." In assaying the reasonableness of such requirements it is well to note that the provision of the Oklahoma Constitution, which the Supreme Court found unexceptionable in *Guinn supra* (238 U.S. at 357), required the applicant to both read and write, and that the Court rejected the grandfather clause only because it was not able to discover any reason for its arbitrary exemption of those possessing certain qualifications on a specified date except one which flew in the face of the Fifteenth Amendment (238 U.S. at pp. 364-365). Such is not the case here. At a time when alien ideologies are making a steady and insidious assault upon constitutional government everywhere,¹⁴ it is nothing but reasonable that the States should be tightening their belts and seeking to assure that those carrying the responsibility of suffrage understand and appreciate the form and genius of the government of this country and of the States.

(b) Literacy tests for prospective voters have been in effect in this country for a century, and no case has been brought before us holding that the people of a state have placed themselves under too heavy a burden in setting the standards which will earn the right to vote, and none condemning a literacy test as such. In *Lassiter v. Taylor*, U.S. D.C. E.D. N. Car., 1957 152 F. Supp. 295, 297-298, attention is called to the fact that nineteen states, only seven of which are Southern states, prescribe literacy tests, and those states and the laws prescribing the literacy tests are listed. Plaintiffs concede that it is proper for Mississippi to enact reasonable literacy requirements for voting. That concession is bound to include the unquestioned concept that it is the states which have plenary and exclusive power to determine what is reasonable. See the language of the Supreme Court opinions in Part I *supra*. Plaintiff's idea that a literacy test may properly embrace one facet but not two (or two facets but not three) is without sanction of either law or reason. In *Trudeau v. Barnes*, 65 F. 2d 563, certiorari denied 290 U.S. 659, the Fifth Circuit Court of Appeals approved Louisiana constitutional requirements embracing both reading and interpreting its Constitution and that of the United States.

(c) To attack the language of amended Section 244 as being too vague and indefinite is to ignore a long and unbroken line of decisions approving legislative enactments whose phraseologies are far more nebulous and difficult of ascertainment than the relatively simple terms before us. A few recent examples will suffice. The Supreme Court has recently¹⁵ approved a federal and a state statute which made criminal the dissemination of literature which was "obscene, lewd, lascivious, filthy, indecent," although it was necessarily left to twelve laymen constituting the jury to determine whether such dissemination had "a substantial tendency to deprave or corrupt the readers by inciting lascivious thoughts or by arousing lustful desires." The Labor Board is given power¹⁶ to examine protracted negotiations between representatives of employers and employees and to determine therefrom whether there has been "bargaining in good faith."

In *Screws v. United States*, 325 U.S. 91, the Supreme Court upheld a criminal statute making it unlawful to deprive any inhabitant of a state "of any rights,

¹³ Last year 268,246 Negroes attended the public schools of Mississippi and 281,694 whites. See Bulletin S.D. 58, Mississippi Department of Education.

¹⁴ Blazoned across the front of the Oct. 3, 1958, issue of U.S. News & World Report are these words in red letters: "TODAY'S WAR—HOW THE REDS ARE OPERATING IN 72 COUNTRIES."

¹⁵ *Roth v. United States*, 1957, 354 U.S. 476.

¹⁶ *Labor Board v. Trulitt Mfg. Co.*, 1956, 351 U.S. 149.

privileges, or immunities secured or protected by the Constitution and laws of the United States . . . by reason of his color, or race." Those rights, privileges and immunities are legion and are being defined and expanded every day." The Court justified its decision by holding that conviction under the statute can ensue only when the jurors find, under proper instructions, that the rights violated are rights belonging to federal citizenship as distinguished from those inhering in state citizenship. It should be remembered also that every juror in a criminal case is forced to apply his common sense in determining what is or is not a "reasonable" doubt: and jurors trying personal injury suits are required to fashion largely out of their own experience standards of "reasonable" care and "reasonable" prudence upon which to base their verdicts.

(3) To charge that the discretion vested in the Registrar is arbitrary and uncontrolled is to ignore the procedures provided by Mississippi law. Administrative appeal to a board selected by the State Board of Election Commissioners is given *de novo* and, on such appeal, the judgment of the Registrar is so highly tentative and lacking in finality that it is not even *prima facie* correct. In every instance his judgment must be one based upon reason, and absolute right of appeal to the courts is also provided. This administrative machinery has the explicit approval not only of *Williams, supra*, but of *Peay et al. v. Cox, Registrar*, 5 Cir., 1951, certiorari denied 342 U.S. 896.

It would be hard to conceive of constitutional provisions which safeguard the rights of applicants for suffrage as well as do the ones under attack. A permanent record is made on forms prepared by state officers and applying uniformly to all applicants, so that anything smacking of discrimination can easily be checked by examination of the public records. This provides a more certain insurance against discrimination than the requirements of original Section 244—providing for oral examination—which bears the stamp of plaintiffs' approval. Right of appeal is given not only to rejected applicants but to any member of the public who may think that any applicant has been too generously dealt with.

(4) (a) In an attempt to prove that the "purpose," i.e., motive, of the people of Mississippi in amending Section 244 of the Mississippi Constitution was an evil one, plaintiffs sought to introduce in evidence six photostatic copies of newspaper articles expressing the opinion that the object of the constitutional amendment was "aimed at stemming the tide of Negro voters that is growing up in the state."¹⁸ The amendment was voted upon at an election for various officials, state and federal. No effort was made to prove that the copies offered were in fact copies of newspapers published at the time and no proof was offered to show that the statements attributed to various individuals were made, or that the opinions were actually expressed.

These articles were permitted to be inserted in the record for whatever value they might have towards proving what the plaintiffs called "climate." No statements were attributed to state officers and the articles purported to express only sentiments which were alleged to be entertained by the private citizens to whom they were attributed. The articles possessed little, if any, probative value.

(b) Plaintiffs also obtained by subpoena copy of an issue of the *Clarion Ledger*, a newspaper published in Jackson, Mississippi, containing an article by Charles M. Hills in which the number of Negroes supposedly qualified and registered in various counties of the state was discussed. The article showed that Jefferson Davis County had, in 1954, 1,221 registered Negro voters. Hills was offered by plaintiff as a witness and asked as to the correctness of his figures. He replied that he had no personal knowledge at all and no information except what he had

¹⁷ In *Adamson v. California*, 332 U.S. 46, it is demonstrated by the four exhaustive opinions that the Judges of the Supreme Court differ radically as to what the quoted words mean.

¹⁸ Five of these were assumed copies of one daily newspaper, including two excerpts from editorials, two news stories about the impending election, and one news story about the formation of a Citizens' Council in a Mississippi county. Each contained the expression of the opinion that the amendment was intended to limit Negro registration. This quotation from one of the editorials is typical:

"The second proposed amendment would tighten up the state's voter-registration requirements to curb registration of near-illiterates . . . The proposed change is wise, desirable and very timely. . . . Adoption of this amendment, and fair and uniform application of the new voter-registration requirements, over the years would steadily raise the average educational qualifications and intelligence of our citizens. It would also curb the registration of members of groups most likely to engage in 'bloc voting' and we believe that adoption of this amendment would, over a long period, help win the fight to retain our separate school system and social institutions . . ."

The remaining newspaper article was a news story in another newspaper dealing largely with activities of Citizens' Councils.

obtained, as the article set forth, from the Mississippi Citizens' Council. The figures could have been nothing but an estimate, as the registration records omit entirely any reference to the race of a registrant; but the article was received as a part of the record for whatever probative value it might have.

If the article should be accepted as dependable and as competent proof, some interesting comparisons might be made. In Jefferson Davis County 926 electors cast their ballots in favor of the constitutional amendment¹⁹ and 278 against it. Plaintiffs' newspaper article showed that fifty-four Negroes were registered voters in Itawamba County; in voting on the amendment, 228 citizens of that county voted for the amendment and 1248 voted against it. The article reflected that 4 Negroes were registered in Pontotoc County; the vote in that county was 339 for the amendment and 1371 against. Speculation engendered by the article would lead to the conclusion that the adoption of the amendment by well over a two to one majority statewide did not follow at all the pattern of race registration which plaintiffs attempt to ascribe to it.²⁰

(c) Plaintiffs, pursuing further the argument that the "purpose" of amending Section 244 was to fashion tools the better to discriminate against Negro applicants, list a number of statutes passed by the Mississippi Legislature in 1954, 1955 and 1956 dealing with the public schools and with other aspects of what plaintiffs term "the state's declared policy of preserving segregation." If we should be tempted to accept "guilt by association" as a proper basis for condemning state action, it would not apply here, because the attack plaintiffs make here is basically upon a constitutional amendment enacted by vote of the people themselves. It was submitted at a time when only one other amendment was on the ballot and that had to do with a technical point applying to corporate procedures. The argument, like those which precede it, is lacking in force.

(5) (a) Having failed to produce any tangible proof to sustain this position, plaintiffs finally call upon us to supply the lack by judicial notice. In other words, we are importuned to rule without proof that, on its face or by reason of its unrevealed sinister "purpose," the constitutional amendment is void. The showing before us wholly fails to warrant serious consideration of so condemning a whole people, which is what we would have to do if we accepted plaintiffs' argument. Neither proof nor judicial knowledge tend to sustain plaintiffs' position.

Even if we had such knowledge by some sort of occult power of divination, we would not have the competence to do what plaintiffs advocate. No case is cited as a precedent for such action, and no proof is offered to sustain it. If we should imagine ourselves possessed of such omniscience and omnipotence, we would find ourselves confronted by a vast array of authority which forbids questioning the motives even of a legislature, certainly of a sovereign people.

(b) Commenting upon the immunity of state legislators from having their motives scrutinized, Judge Learned Hand²¹ exclaims: "but of all conceivable issues this would be the most completely 'political,' and no court would undertake it."²² He also quotes Chief Justice Taney's statement in "The License Cases," 5 How. 504, 583: "Upon that question the object and motive of the States are of no importance, and cannot influence the decision. It is a question of power." Mr. Justice Douglas, in *Fernandez v. Wiener*, 326 U.S. 340, quoted the language of Chief Justice Stone in *Sonzinsky v. United States*, 1937, 300 U.S. 506, 513: "Inquiry into the hidden motives which may move Congress to exercise a power constitutionally conferred upon it is beyond the competency of the

¹⁹ The figures are obtained from "Mississippi Official and Statistical Register, 1956-1960," page 397.

²⁰ Plaintiffs seek to draw an unfavorable inference against defendants from the fact that Governor Coleman declined to honor a subpoena issued by them. This was in keeping with the general law and the traditional policy of governors in Mississippi and in States generally. The Court offered to have Mr. Patterson, a member of the same Commission with the Governor, submitted to examination by plaintiffs, but plaintiffs did not choose so to proceed. It was clear that the testimony which plaintiffs sought to elicit from the Governor was hearsay and undependable because the figures were derived from a letter tunity to attempt to make the desired proof by the Registrar of Jefferson Davis County in 1954, or to proceed by interrogation, request for admission, or the other avenues provided in F.R.C.P., but they did not do so.

²¹ "The Bill of Rights," supra, p. 46.

²² Citing *McCulloch v. Maryland*, 4 Wheat. 316, 423; *Doyle v. Continental Ins. Co.*, 94 U.S. 535, 541; *Weber v. Freed*, 239 U.S. 325, 330; *Arizona v. California*, 283 U.S. 423, 435; *Daniel v. Family Insurance Co.*, 336 U.S. 220, 224.

courts." Upon a principle so unquestionable it is sufficient to add to the cases already cited a list of more recent decisions affirming it.²³

We hold, therefore, that plaintiffs have wholly failed to establish that the amendment to Section 244 of the Mississippi Constitution of 1890 is void on its face or because it was the product of base motives. We hold, on the other hand, that said amendment and the statutes passed in connection with it are valid on their face and in fact, and are a legitimate exercise by the State of its sovereign right to prescribe and enforce the qualification of voters.

III

(1) This brings us to the contention that plaintiffs, along with other Negroes, were actually discriminated against in the administration of the Constitution and laws of Mississippi by defendant Daniel. If such discrimination was practiced against plaintiffs, the actions of defendant would certainly come under the condemnation of the Fifteenth Amendment, or the Fourteenth Amendment, or both. Plaintiffs put on the witness stand a number of other Negroes, but we look first to their own testimony to determine if either plaintiff proved that he was qualified to register under the Constitution and laws of Mississippi and was denied registration because of his race.

Plaintiff Dillon, conceding that she was properly given the written test provided by the amendment, failed to produce a copy of that test for the Court's inspection. She did not demonstrate in her oral testimony the possession of the qualifications provided in the Mississippi Constitution and statutes, and there is no proof at all, therefore, that she had any status to maintain this action.

According to the testimony of his attorney, plaintiff Darby approached him in April or May, 1956, about the time he wrote President Eisenhower. The attorney called the N.A.A.C.P., which, sometime later, agreed that its Legal Fund would pay the attorneys and the expense of any litigation which might be brought by Reverend Darby.

This was before his first written application of June 29, 1956, in which he stated that he was a farmer. The application was signed by him but was not filled in. It is not claimed that, in this application or the oral tests which came after it, plaintiff Darby showed himself qualified to register. The entire case is predicated on the sworn written application of June 22, 1957, which he took under his attorney's advice and direction. This document, read in the light of the testimony of plaintiff Darby, reveals several deficiencies.

He made no answer to Question 14 inquiring if he had ever been convicted of the crimes enumerated in the question; considerable portions of the answers written by plaintiff are illegible. In response to Question 18 calling upon him to copy Section 123 of the Constitution of Mississippi,²⁴ he wrote six lines not called for by the question and not possessing marked coherence. In giving his reasonable interpretation of that section he wrote, "the govenner govends all the works of the state and he is to see that all the violatores be punished and als he can pardon out the penetenter ane pherson." In answering Question 20 which directed him to write his understanding of the duties and obligations of citizenship under a constitutional form of government, he wrote five lines which could hardly be called accurate or responsive to the question.²⁵

That he could not write legibly is exemplified by examination of the several documents in the record written by him, and is further attested by the fact that the letter he sent the president was written entirely by someone else, including the signature. He did not attempt, while on the witness stand, to demonstrate that he could read. Every other Negro witness he placed on the stand was given a section of the Mississippi Constitution to read before the Court, but plaintiff himself did not attempt to show his ability to read. The evidence does not, therefore, support the burden imposed on the plaintiffs to show that they were qualified to be registered as voters. *A fortiori* it does not establish that defendant Daniel did not act in good faith or exercise a sound discretion when he made his decision that plaintiffs had not passed the examinations given them.

²³ *Cohen et al. v. Beneficial Industrial Loan Corp.*, 1949, 337 U.S. 541, 552; *Goesaert v. Cleary*, 1948, 335 U.S. 464, 467; *Oklahoma ex rel Phillips v. Atkinson*, 1940, 313 U.S. 508, 528; *United States v. Darby*, 1941, 312 U.S. 100, 115; *Child Labor Case*, 1922, 259 U.S. 20, 39; *Daniel v. Family Insurance Co.*, 336 U.S. 221; and *Doyle v. Continental Insurance Co.*, 94 U.S. 535.

²⁴ "The Governor shall see that the laws are faithfully executed."

²⁵ "a citizen is persn has been in the USA all his days, and is not been convicted of enny crimes and has been Loyal. to his country and pase all his tax."

In passing judgment on this phase of the case we cannot leave out of view that defendant Daniel knew that he was under surveillance by Federal officials and that he was dealing with one party who was acting under advice of counsel.

It is fundamental that plaintiffs must stand or fall on the merits of their own case. The Supreme Court stated the principle in *McCabe v. A.T. & S.F. Ry. Co.*, 1914, 235 U.S. 151, 162, in these words:

"But we are dealing here with the case of the complainants, and nothing is shown to entitle them to an injunction. It is an elementary principle that, in order to justify the granting of this extraordinary relief, the complainant's need of it, and the absence of an adequate remedy at law, must clearly appear. The complainant cannot succeed because someone else may be hurt. Nor does it make any difference that other persons, who may be injured are persons of the same race or occupation. It is the fact, clearly established, of injury to the complainant—not to others—which justifies judicial intervention." (Citing a number of Supreme Court cases.)²⁶

(2) Plaintiffs served subpoenas on twenty-five Negro witnesses, of whom fifteen were placed upon the stand. Despite the principles last above quoted and such cases as *Reddix v. Lucky*, (5 Cir., 1958) 252 F. 2d 930, 938, holding that "obviously the right of each voter depends upon the action taken with respect to his own case," we permitted this testimony to be introduced over objection to give plaintiffs a chance to show that there was a class whose rights they might carry if they established their own case, and also that the testimony might be considered as furnishing circumstantial evidence of discrimination in favor of the case of plaintiffs. Although some of the written applications exhibited in connection with the testimony of these witnesses were sufficient to raise an issue of fact as to their qualifications, it is not our province to set ourselves up as registrar of voters.

Some of the testimony certainly demonstrated the absence of qualifications of the applicants. For example, when called upon by Question 18 to copy Section 198 of the Mississippi Constitution, Johnnie B. Darby, plaintiff Darby's wife, wrote: "I have so agreed to be as good a citizen as I possible can I have not yet read the Constitution of Mississippi I do try to abide by truth and right as the almighty god provide the understanding and wisdom."

Another witness called upon to copy Section 16 of the Constitution²⁷ wrote: "Ex post facto laws or laws impairing obligations contrace St. Shall Be passed." Interpreting that section this same witness wrote: "a man must pay pold tax before he eagable to voat." This witness gave his occupation as that of teacher.

None of these witnesses took appeals from Daniel's ruling declining to permit them to register. Four of the fifteen passed the written examination, and of those who failed, the wives of two passed. He gave the test to some of the witnesses as many as four times and he invited plaintiff Dillon to come back and try again. The testimony of these witnesses adds little to the solution of the problem before us.

(3) Plaintiffs introduced one bound volume containing seventy-eight original applications. The documents do not show whether the applicants were white or colored. It seems probable that the purpose of introducing this volume was to show that, during this period, all applicants were required to take the written examination, whereas under the constitutional amendment those who were registered voters on January 1, 1954, were required to take only the oral test habitually given under the original Constitution. This does not prove anything which was not readily admitted by defendant Daniel. From the time Daniel came into office January 1, 1956, until the Attorney General of Missis-

²⁶ The cases on the subject are collected in an opinion by Chief Judge Hutcheson of the Court of Appeals of the Fifth Circuit in *Brown v. Board of Trustees*, 1951, 187 F. 2d 20, 25, where he quoted from several Supreme Court cases. This language is applicable to the case before us: "All of these considerations, however, are completely beside the mark here, for plaintiff has wholly failed to plead or prove any deprivation of his civil rights and it is elementary that he has no standing to sue for the deprivation of the civil rights of others."

"It is the individual who is entitled to the equal protection of the laws, and if he is denied . . . a facility or convenience . . . which, under substantially the same circumstances, is furnished to another traveler, he may properly complain that his constitutional privilege has been invaded."

"*Cf. Sweatt v. Painter*, 339 U.S. 629, 635, 70 S. Ct. 848, 851, where the court said: 'It is fundamental that these cases concern rights which are personal and present . . . petitioner's right was a personal one. It was as an individual that he was entitled to the equal protection of the laws, . . .'"

²⁷ "Ex post facto laws, or laws impairing the obligation of contracts, shall not be passed."

issippi advised him of his error, he had been using the forms furnished him by the State Election Commissioners and testing all applicants by written examination. As far as the testimony goes none had objected. The point of this testimony, however, is that undisputedly white and colored were treated exactly alike. Since, according to the undisputed proof, there were only forty to fifty Negro voters registered in the county, the seventy-eight applicants, all of whom passed, necessarily included some white people.

The wrongful interpretation or the misapplication of Mississippi law alone would not give this Court jurisdiction or amount to deprivation of any constitutional rights. Under this phase of the case discrimination alone resulting from the fact that plaintiffs are Negroes can justify maintaining the action or granting the relief sought. The Supreme Court announced the principle in explicit terms in *Snowden v. Hughes, et al.*, 1941, 321 U.S. 1, 8, (a case in which *Williams v. Mississippi, supra*, was cited with approval) where the dismissal of an action for want of jurisdiction was approved where a candidate for office sought equitable relief against party officials who refused to certify him as a candidate. The language quoted in the margin controls here.²⁸

The essence of the action before us, therefore, is discrimination on the part of the defendant Daniel,—discrimination against plaintiffs, Negroes, and in favor of white persons. After listening to the oral testimony and examining the documents carefully we are unable to find any tangible or credible proof of discrimination. There is no proof that any white person was ever treated in any manner more favorably than plaintiffs or any other Negroes. The mere showing that of 3,000 qualified voters in Jefferson Davis County, only forty to fifty are Negroes is not sufficient. Plaintiffs carry the burden of showing that plaintiffs have been denied the right to register because they are Negroes, and that white people similarly situated have been permitted to register. This record contains no such proof. The disparity between numbers of registrants, as has been so often pointed out, results doubtless from the fact that one race had a start of several centuries over the other in the slow and laborious struggle toward literacy. This record does not, in our opinion, show that defendant has practiced discrimination. From our observation of his demeanor during the trial and while on the witness stand and of the evidence generally we are convinced that he has shown himself to be a conscientious, patient and fair public official, exerting every effort to do a hard job in an honorable way.

IV

Plaintiffs aver in their complaint that they have a right to maintain this action without exhaustion of administrative remedies provided under Mississippi law. They base this contention upon the provisions of 42 U.S. Code Annotated, § 1971 (d), upon their charge that "where the plaintiff challenges the constitutionality of a state statute or policy, a federal court will not require the exhaustion of administrative remedies;" and upon their assertion that "plaintiff here seasonably attempted to exhaust his administrative remedies and was unable to obtain a decision by the Board of Election Commissioner." These contentions will be discussed in reverse order.

(1) Mississippi's election machinery is under the supervision of the State Board of Election Commissioners consisting of the Governor, the Secretary of State and the Attorney General.²⁹ This Board is required,³⁰ "Two months before every general election of representatives in Congress, and of electors of president and vice-president of the United States, . . . [to] appoint the commissioners of election for each county . . ." The absolute right of appeal to

²⁸ "But not every denial of a right conferred by state law involves a denial of the equal protection of the laws, even though the denial of the right to one person may operate to confer it on another. . . . And where the official action purports to be in conformity to the statutory classification, an erroneous or mistaken performance of the statutory duty, although a violation of the statute, is not without more a denial of the equal protection of the laws.

"The unlawful administration by state officers of a state statute fair on its face, resulting in its unequal application to those who are entitled to be treated alike, is not a denial of equal protection unless there is shown to be present in it an element of intentional or purposeful discrimination. . . . But a discriminatory purpose is not presumed, *Tarrance v. Florida*, 188 U.S. 519, 520; there must be a showing of 'clear and intentional discrimination.' *Gundling v. Chicago*, 177 U.S. 183, 186; . . ." [Emphasis supplied.]

²⁹ Mississippi Code of 1942, § 3204.

³⁰ *Ib.* § 3205.

the county board is given in words reproduced in the margin.³¹ Hearings on appeal are provided for by § 3227 of the Mississippi Code (appearing first in the Mississippi Code of 1892) entitled "Appeal Heard De Novo:"

"All cases on appeals shall be heard by the boards of election commissioners de novo and oral evidence may be heard by them; and they are authorized to administer oaths to witnesses before them; and they have power to subpoena witnesses, and to compel their attendance; to send for persons and papers; to require the sheriff and constables to attend them and to execute their process. The decisions of the commissioners in all cases shall be final as to questions of fact, but as to matters of law they may be revised by the circuit and Supreme Courts. The registrar shall obey the orders of the commissioners in directing a person to be registered, or a name to be stricken from the registration books."

Sections 3228, 3229, 3230 and 3231 provide for hearing of the appeal by the circuit court of the county. The right of appeal to the Supreme Court is given.

The evidence does not show that plaintiff Darby "was unable to obtain a decision by the Board of Election Commissioners." It does show that he seasonably appealed to the County Board of Election Commissioners, thus electing to proceed by statutory appellate procedures, but that he failed to follow them through. On the other hand, he began this civil action four days before the first meeting of the Board held after his appeal. The appeal is still pending and undisposed of.³² Plaintiffs' first assigned reason is, therefore, without merit.

(2) The cases cited by plaintiffs³³ do not sustain their contention that it is not necessary to exhaust administrative remedies where the claim is asserted that constitutional rights have been violated.

There are decisions³⁴ holding that, where an appeal presents only matters of law, the court may intervene without awaiting action by the intermediate administrative board which had no power to pass upon legal questions. But such cases do not control here. The written appeal of plaintiff Darby on June 24, 1957 was a general appeal, and the writing which accompanied it, states that he had on June 22, 1957, presented himself to the Registrar, making application to register as a voter "whereupon such instance notwithstanding that I did then and do now possess the necessary qualifications to register, I was denied registration." A letter from his attorney dated September 21, 1957 states that "He has been denied the right to register to vote, notwithstanding that he was then and is now possessed with the necessary qualifications for same." The formal "Contentions" filed by said plaintiff October 7, 1957 raised constitutional questions, but also reiterated the questions of fact theretofore relied upon, to wit: that defendant Daniel was administering the constitutional and statutory provisions of Mississippi in such a manner as to discriminate against him, and that he was a duly qualified and registered voter in Mississippi prior to January 1, 1954, and was entitled to registration without complying with the additional qualifications contained in the amendment to the Constitution. In this state of the record and under the complaint, it is clear that plaintiffs' challenge did not relate to ques-

³¹ *Ib.* § 3224 provides that: "Any person denied the right to register as a voter may appeal from the decision of the registrar to the board of election commissioners by filing with the registrar, on the same day of such denial or within five days thereafter, a written application for appeal."

§ 3225 provides: "Any elector of the county may likewise appeal from the decision of the registrar allowing any other person to be registered as a voter; but before the same can be heard, the party appealing shall give notice to the person whose registration is appealed from, in writing, stating the grounds of the appeal, which notice shall be served by the sheriff."

³² Meetings of the Board are fixed by three Mississippi Statutes: Section 3239 of the Mississippi Code of 1942, first passed in 1880, provides for a meeting "On the first Monday of October preceding a general election, and five days before any other . . ." There was no general or other election in Mississippi during 1957. Section 3226 first passed in 1892, provides for meetings on the first Monday in October after appointment. The reason for this statute is that the time of appointment of the Board is indefinite under Section 3205, *supra*. The Board had been appointed in 1956 and had held a meeting in October of that year. This statute does not apply to any year except the year of their appointment.

The Mississippi Legislature of 1938 passed a new statute, now Section 3240 of the Code, requiring that the Board meet every year on the Tuesday after the third Monday in March, and this is the general meeting. The statutes provide an understandable and reasonable time for the meeting of the Board so that an elector desiring to register may not miss any election, and plaintiff and his attorney were advised by the statutes and by word of the Registrar of the date the Board would meet. Instead of attending the meeting of the Board and prosecuting the appeal they had begun, they filed this civil action.

Plaintiff Rutha Dillon testified that she did not appeal at all.

³³ *E.g.*, *Gibson v. Board of Public Instruction of Dade County*, 5 Cir., 1957, 246 F. 2d 913, which holds premature the contention that schoolchildren did not pursue administrative remedies where the Florida Constitution made nonsegregated schools illegal.

³⁴ *E.g.*, *Bruce et al v. Stilwell et al*, 5 Cir., 1953, 206 F. 2d 554.

tions of law only. We repeat what the Court of Appeals for the Fifth Circuit said in *Peay v. Cox*, *supra*:³⁵ "The Commissioners are sworn officers and presumably will give them a fair hearing. They may easily think the petitioners are right in their construction of the Mississippi Constitution * * * If they hold otherwise on that point but that a discrimination is practiced, they may correct that. The Registrar is bound to obey them." The second ground asserted by plaintiffs is, therefore, untenable.

(3) Finally, plaintiffs claim to be exempted from Mississippi procedural laws relating to registration and appeal therefrom, basing their contention upon the Act of Congress approved September 9, 1957, Public Law 85-315, Part IV, Section 131(d).³⁶ Plaintiffs would construe the words "shall have exhausted any administrative or other remedies that may be provided by law" as permitting interception of the state remedy of appeal already begun and carried through by Darby to a point just short of hearing before the County Commissioners; and as relieving plaintiff Dillon of having taken the first step towards appeal, or having made any move at all until more than two years after her application had been rejected by the Registrar.

The mechanics set up by Mississippi to determine which applicants are qualified to register embrace three steps: Written application, which is passed upon by the Registrar; appeal from his ruling by the applicant or any other citizen and full hearing before the County Board; and appeal to the Circuit Court of the county. The Court of Appeals for the Fifth Circuit, in *Peay v. Cox*, *Registrar*, 190 F. 2d at p. 126, certiorari denied 342 U.S. 896, classified even the step carrying the controversy before the counts as administrative under the authority of *Federal Railroad Commission v. General Electric Co.*, 281 U.S. 464. To short circuit the admittedly administrative proceedings short of a hearing and decision by the County Board would be not only to deny exhaustion of administrative remedies, but to stop them before they had begun. Such a conclusion is compelled if two key words of the new Federal statute "remedy" and "exhaust," are given their normal meaning.

Exhaust³⁷ means to use up, to expend completely. Remedy³⁸ is defined as "something that corrects, counteracts or removes an evil or wrong; relief; redress." To sustain plaintiffs' position would be to shut off all state action aimed at providing a remedy, at redress. But the words of the statute contemplate that the state be given a chance to "correct" the asserted "wrong." It is difficult to perceive how these words of the statute can be given any efficacy at all or how the constitutional scheme can be fulfilled if Federal competence is to be construed as displacing state power in this vital field before the state is permitted to take the first step toward furnishing an administrative "remedy."

The meaning of the quoted words must be determined in the light of state and Federal competence as established by the Constitution as construed by the Supreme Court. In balancing the rights of a plaintiff to the protection of the Constitution and the power of a state over suffrage, it is well to keep in mind what the Supreme Court said in *Guinn*, *supra*, to the effect that "without the possession of which power the whole fabric upon which the division of state and national authority under the Constitution and the organization of both governments rests would be without support and both the authority of the Nation and state would fall to the ground." The State of Mississippi had plenary and exclusive power to fix the qualifications of voters. More than that, it had and must have the power to provide machinery for its enforcement. The machinery provided by it contemplates the relatively ministerial act of registration by the registrar. The heart of Mississippi's machinery lies in the right of any person to appeal to the County Election Commission. That body alone has the power to have a hearing, to consider evidence, to give the time and study incident to a considered conclusion. Its findings and orders are absolutely binding upon the registrar. To take from this administrative scheme the duties conferred on this Board would be to render sterile the undoubted exclusive power of a state over suffrage.

³⁵ 1951, 190 F. 2d 123, 126, certiorari denied 342 U.S. 896.

³⁶ The section now codified as 42 U.S.C.A. § 1971(d) reads as follows: "The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law." [Emphasis added.]

³⁷ Webster's New World Dictionary, p. 509.

³⁸ *Ib.* p. 1230.

The Supreme Court of the United States has throughout its history recognized the rule that administrative proceedings must be exhausted, and it has been particularly punctilious in requiring the exhaustion of administrative remedies provided by the States.

We are confronted here with the necessity of deciding the point at which a federal court would be warranted in interrupting administrative procedures,—that is, what the statute under consideration means by exhaustion of administrative remedies. The Supreme Court, in handling an action for declaratory judgment in a district court under the Renegotiation Acts, used this language concerning administrative remedies, affirming the act of the district court in declining jurisdiction.³⁹ "Ordinarily of course issues relating to exhaustion of administrative remedies, as a condition precedent to securing judicial relief, and to the existence of jurisdiction in equity are either separate or separable matters, to be treated as entirely or substantially distinct. The one generally speaking is simply a condition to be performed prior to invoking an exercise of jurisdiction by the courts. The other goes to the existence of judicial power in the basic jurisdictional sense . . .

" . . . The doctrine, wherever applicable, does not require merely the initiation of prescribed administrative procedures. It is one of exhausting them, that is, of pursuing them to their appropriate conclusion and correlatively, of awaiting their final outcome before seeking judicial intervention."

The solicitude habitually manifested by the Supreme Court in its traditional dealing with state matters before administrative agencies is well illustrated by the language used in *Alabama Public Service Commission et al v. Southern Railway Company*, 1951, 341 U.S. 341, 349-350: "As adequate state court review of an administrative order based upon predominantly local factors is available to appellee, intervention of a federal court is not necessary for the protection of federal rights. Equitable relief may be granted only when the District Court, in its sound discretion exercised with the 'scrupulous regard for the rightful independence of state governments which should at all times actuate the federal courts' is convinced that the asserted federal right cannot be preserved except by granting the 'extraordinary relief of an injunction in the federal courts.' Considering that '(f)ew public interests have a higher claim upon the discretion of a federal chancellor than the avoidance of needless friction with state policies,' the usual rule of comity must govern the exercise of equitable jurisdiction by the District Court in this case. Whatever rights appellee may have are to be pursued through the state courts."

And in *Hecht Co. v. Bowles*, 1944, 321 U.S. 321, 329-330, the Court upheld the refusal of a District Court to grant an injunction using this language: "We cannot but think that if Congress had intended to make such a drastic departure from the traditions of equity practice, an unequivocal statement of its purpose would have been made.

" . . . We do not believe that such a major departure from that long tradition as is here proposed should be lightly implied . . .

" . . . Neither body [that is, administrative and court] should repeat in this day the mistake made by the courts of law when equity was struggling for recognition as an ameliorating system of justice; neither can rightly be regarded by the other as an alien intruder, . . ."

It seems reasonable that, as applied to the Mississippi statutes under the facts of this case, the exhaustion of administrative remedies provided in the quoted Federal statute should, in any event, be held to exist only after the appellate proceedings before the County Election Commissioners have been completed. Such a course would give full protection to the rights of plaintiffs, affording them remedy in the federal courts at the point where the administrative process is by Mississippi statutes committed to the courts. That is consistent with the holding of the Supreme Court in *Lane v. Wilson*, *supra*:⁴⁰ "To vindicate his present grievance the plaintiff did not have to pursue whatever remedy may have been open to him in the state courts. Normally, the state legislative process, sometimes exercised through administrative powers conferred on state courts, must be completed before resort to the federal courts can be had . . . But the state procedure open for one in the plaintiff's situation . . . has all the indicia of a conventional judicial proceeding and does not confer upon the Oklahoma

³⁹ *Aircraft & Diesel Corp. v. Hirsch*, 1947, 331 U.S. 752, 764 and 767; and cf. *United States v. Abilene & So. Ry. Co.*, 265 U.S. 274; *United States v. Sing Tuck*, 194 U.S. 161; and *Gonzales v. French*, 164 U.S. 338.

⁴⁰ 307 U.S. at 274.

courts any of the discretionary or initiatory functions that are characteristic of administrative agencies . . . Barring only exceptional circumstances, . . . resort to a federal court may be had without first exhausting the judicial remedies of state courts." The exercise of such a discretion comports with the holdings of a long line of decisions of the Supreme Court.⁴¹ And compare the language and action in *Lane, supra*, with that in *Alabama Public Service Commission, supra*.

We think the foregoing reasoning is sound, but we do not have to rest this phase of the decision upon it because it is quite clear that this case is not governed by the quoted provisions of the Act of September 9, 1957. By its terms it applies only to "proceedings instituted pursuant to this section." Subsection (d) appears as a part of the Civil Rights Act of 1957 bearing the heading: "Sec. 131." That section creates procedures theretofore unknown and vests the Attorney General of the United States with power to institute legal proceedings for private individuals. It is manifest that Subsection (d) applies only to actions so instituted. It follows that plaintiffs cannot maintain this action for the additional reason that they failed to pursue the reasonable and adequate administrative remedies provided by Mississippi law.

V

Plaintiffs attack the constitutionality of the Mississippi statutes covering champerty and maintenance, Section 2049-01 through Section 2049-08 of the Mississippi Code of 1942, this portion of the action being directed chiefly against defendant Patterson, Attorney General of Mississippi. The complaint alleges that the defendant Attorney General threatens to enforce as against the plaintiffs and their attorneys the provisions of these statutes and that, as the result of said threats, plaintiffs and their attorneys are suffering irreparable injury. Plaintiffs' evidence wholly failed to sustain these charges of the complaint. In fact, that evidence showed without dispute that no such threats had been made and that no action was taken or within contemplation which could in any way affect the welfare or the rights of plaintiffs or their attorneys. The statutes have not been passed upon by the courts of Mississippi. Since the evidence fails to establish that any controversy exists between plaintiffs and either defendant with respect to said statutes, and in view of the long line of Supreme Court decisions committing such matters at least primarily to state court action, *Amalgamated Clothing Workers of America v. Richmond Bros.*, 348 U.S. 511; *Stefanelli v. Minard*, 342 U.S. 117; *Douglass v. City of Jeanette*, 319 U.S. 157; and *Watson v. Buck*, 313 U.S. 387, and cf. 28 U.S.C.A. #2283, plaintiffs cannot maintain this phase of their complaint.

It results from the foregoing views that plaintiffs are not entitled to any of the relief sought. We are, therefore, entering an order dismissing the complaint.

Dismissed.

(This Opinion issued November 6th, 1958.)

Mr. WILLIAMS. Mr. Chairman, I have touched only upon the highlights of the Darby case. These 19 people who allegedly had been discriminated against and denied the right to vote, according to Clarence Mitchell, in Jefferson Davis County, Miss., insofar as they could be found were called in on this case, as Attorney General Patterson has previously testified, and, of course, you know what Mr. Patterson told you happened in that instance.

Mr. ROGERS. I was going to ask you about your saying that Clarence Mitchell is a professional agitator.

Mr. WILLIAMS. Could you say he was anything else, Mr. Chairman, honestly?

Mr. ROGERS. I was going to say the fact that he may be the NAACP representative here in Washington, does that make him a professional agitator?

⁴¹ *Burford et al v. Sun Oil Co. et al*, 1943, 319 U.S. 315; *Railroad Commission of Texas v. Pullman Co.*, 1941, 312 U.S. 496; *Meyers v. Bethlehem Shipbuilding Corp.*, 303 U.S. 41; *Prentiss et al v. Atlantic Coast Line Co. etc.* 1908, 211 U.S. 210, and cases cited. And see also *Peay v. Cox, supra*; *Cook v. Davis*, 5 Cir., 178 F. 2d 595; and *Bates v. Batte*, 5 Cir., 187 F. 2d 142.

Mr. WILLIAMS. Mr. Chairman, I know of no purpose that organization serves except to agitate. If they were really interested in the advancement of the colored people, I would think that they would have had a little money and taken some steps down in Little Rock to educate some of those poor Negro children whom the Supreme Court denied an opportunity to attend school this year.

I mention this case also because it is a recent case decided November 6, 1958, and if I am not mistaken, Mr. Chairman, this is the same case that Mr. Brownell came over and screamed so loudly about, in which it was alleged that the circuit clerk had asked the applicant in his examination how many bubbles were in a bar of soap. I am certain that is the same case.

Moreover this case is extremely important because it is one which was used before the subcommittee in 1957 as an example of why the 1957 act was necessary.

Mr. Chairman, I am going to skip over here a little bit, because I am taking entirely too much time.

Title IV of the bill would extend the Civil Rights Commission for 2 more years. This title should not be adopted for many reasons.

One reason, of course, is that it has wholly failed to serve any purpose during the 2 years of its existence, except to divide the good people of the Southern States, and I understand also to some extent in the Northern States.

The Commission is dishonest because they did not investigate a case involving one of the Commissioners. This Commissioner was forced out, if not outright fired, from another Government position merely because of his membership on the Commission, according to nationally syndicated columnists. I hate to bring Drew Pearson into this because I am certain that nobody could have a lower opinion of him than I, but I am going to use him as he is often cited as the liberal authority in these matters. In other words, this man lost a \$21,000-a-year job as Under Secretary of Labor on the grounds that political obligations to his race had been discharged through his Commission appointment and therefore he should make way for someone else in the Labor Department. I understand that his White House plea was to no avail so he had no choice but to resign as Under Secretary of Labor. Here again I use Drew Pearson as the authority for that, for such authenticity as you may desire.

There is no point in extending the life of the Commission for the reason that no one wants to serve on it. It is an open secret that four of the present six Commissioners will soon quit. What advantage is there to Congress and the President to receive recommendations from a Commission that has a high rate of turnover, lack of continuity, partially developed information, and reluctant officeholders?

Here is an interesting one: The supersecret manner in which certain employees operate is indicative of the incompetence of the staff. One employee, a man by the name of George Harris, made a trip to Mississippi in an effort to induce someone to serve on the State Advisory Commission. Carefully avoiding publicity, Harris made his way about the State in a rather furtive manner seeking, first, well-known persons to be advisers. In about a week, he was seeking anyone, because he found no one receptive to the idea. Of course, all this time his rounds were well known to the alert Jackson press.

May I say that I checked with a Civil Rights Commission back in November of last year and asked them if they could give me the names of the persons who were serving on the Advisory Commission of the State of Mississippi. They very frankly admitted that they couldn't find a decent, respected person in Mississippi, white or colored, who was willing to lend his name to that outfit. So Mississippi stands today without any Advisory Commission.

Repeating, this fellow Harris, carefully avoiding publicity, made his way about the State, seeking, first, well-known persons to be advisors. In about a week he was seeking anybody, because he found nobody receptive to the idea of turning traitor against their own neighbors and against their own State.

Finally, the press went to his hotel room for an interview. Upon seeing them, his first act was to pick up the telephone, call the desk and request reservations on the first plane out of Jackson. Upon receiving confirmation of his reservation, as an afterthought more or less, he asked where the plane was going. He left town in sport clothes, leaving behind his suit at the cleaners. He said he wanted the first plane out of Jackson, and it was heading for Houston, and he grabbed it. After he got the confirmation of his reservation, then he asked where the plane was going and he took it.

If Harris' modus operandi is typical, then the Commission certainly should be terminated.

Efforts to set up State Advisory Committees have met with no success in several States. Understandably, citizens of the South have no desire to become a part of a movement aimed at extending Federal tyranny. In one State, members of the Advisory Committee resigned after the organizational meeting when they learned what was expected of them.

In one State, North Carolina, a majority of the Advisory Committee are members of organizations dedicated to the amalgamation and mongrelization of the white and black races.

The Commission has served no useful purpose in the past, and it can serve no useful purpose in the future. Once again, I trust that this section will not be enacted.

I will go through this rather hurriedly, Mr. Chairman.

Title V, as testified by Mr. Patterson who preceded me and other witnesses, is nothing more than an attempt to set up a Federal FEPC enforced by a Federal gestapo, with complete Federal control of business, something which goes contrary to the grain of our American system.

As to title VI, which I believe is the title which deals with military education, I will simply point out the insincerity of those who sent this bill over here as part of the President's own act and endorsed by the President, by pointing out what is now a celebrated fact and well known, and never denied, that the President's own son, who is a member of the military, took his children out of an integrated school down at Fort Belvoir operated by the Federal Government and put them in a white segregated private school in Alexandria.

Mr. Chairman, I apologize to the committee for having taken so much time, and particularly to the other witnesses who are waiting to be heard.

May I say that it is my hope that this committee may see its way clear to rise above the politics of this issue and to give some serious thought to preserving the fundamental structure and the fabric of our system of government. Recognize, if you please, in any legislation that you enact, and do not ignore it, please, that the powers of the Federal Government are limited. Remember that Jefferson told us that article X of the Constitution, which is the article circumscribing and limiting the powers to be exercised by the Federal Government, is the "keystone in the arch of American liberty." Mr. Chairman, with that statement I quite agree, and having so cited the father and the founder of the great Democratic Party, and the man who perhaps had more to do with the creation of our form of government than any other person, the chief architect of American liberty, Thomas Jefferson, I am pleased to close my statement, and thank you very much.

Mr. ROGERS. Thank you, Mr. Williams.

Our next witness is Hon. Armistead I. Selden, Jr., Member of Congress from Alabama. We are delighted to have you.

STATEMENT OF HON. ARMISTEAD I. SELDEN, JR., A REPRESENTATIVE IN CONGRESS FROM THE SIXTH CONGRESSIONAL DISTRICT OF ALABAMA

Mr. SELDEN. Thank you, Mr. Chairman. I would like, Mr. Chairman, to make a few general observations as a prologue to several specific reasons for my opposition to civil rights legislation now under consideration by this committee.

Although these observations are general and in some cases personal, I am confident that they are shared by the vast majority of those who have lived their entire lives, as I have, in a Southern State and who have been interested in the welfare of both the white and the Negro races.

The most important and perhaps the most shocking observation is that the friendly relations that have existed in Alabama and throughout the entire South between the white and Negro races have been severely strained in recent years, primarily through the interference of persons and organizations from other parts of the Nation. It is obvious to those of us who live in the South that each new Supreme Court decision affecting race relations, each new NAACP attack, and each new civil rights law further agitate the members of both races.

In Alabama, as in other sections of the South, we have always operated under a segregated system. Under that system, the Negro race has made great progress—perhaps greater progress than any race anywhere at any time in history. That progress has been made with the help and encouragement of the Southern white people and, because of the good working relationships between the two races, racial strife and hatred in the South has been negligible.

As a result of the Supreme Court's decision of May 17, 1954, and the events that have followed, we are now confronted with a situation in Alabama and the South that is not easily understood by those who live in other parts of the country. Many fail to realize that in the South we are dealing with large masses of the Negro race rather than with the relatively small Negro population found in other sections of the United States.

Under the separate but equal doctrine, promulgated by the Supreme Court more than 60 years ago and reaffirmed several times since, school facilities for Negro students had improved steadily. During the 20-year period between 1936 and 1956, the number of accredited public Negro high schools in the State of Alabama increased by more than 1,000 percent.

In 1937 there were 1,459 Negro high school seniors enrolled in Alabama. Just 20 years later in 1957 the number of seniors had multiplied to a total of 7,971.

There are approximately 105 Negro colleges in the United States. Of this number, 95 are located in the South.

Although there is no record of a Negro student receiving the master's degree in an institution of higher learning in Alabama in 1937, 76 earned this degree in 1957 in the State. In addition, there were 739 Negroes graduating from colleges in Alabama in 1957 as compared with only 72 college graduates 20 years earlier.

Negro teachers are employed to teach in the Negro schools in Alabama, and their salaries are on a par with the white teachers of the State.

The majority of the members of the Negro race recognize and appreciate the progress that is being made in the field of education and, while I am certain many feel such progress should be accelerated, they are aware of certain economic difficulties that must be surmounted. Similar progress can be cited in other fields.

Yet, despite indisputable advancements, the South today is being treated as the stepchild of our Nation and its Negro population used as a political football.

As you will recall, Mr. Chairman, I appeared before this committee in 1957 and testified in opposition to so-called civil rights legislation then pending. Despite the subsequent passage of the Civil Rights Act of 1957, we find ourselves less than 2 years later faced with a barrage of bills purportedly designed to strengthen civil rights in all areas. Therefore, I again urge all Americans, regardless of their section of the country or their race, to look carefully beneath the veil of "civil rights," which is used to shroud so many of the far-reaching bills now pending, and examine the real substance of the legislation.

Let me refer first to the measure introduced by Chairman Celler, H.R. 3147, and similar measures. In title II of H.R. 3147, there is a section which provides for "technical assistance" by the Secretary of Health, Education, and Welfare to municipalities, school districts and other local governmental units. The phraseology of this part of the proposed legislation is most unusual, as the words "technical assistance" are normally applied to the help given by the world's advanced nations to underdeveloped areas. But since the proposed legislation envisages the bringing to bear of the Federal Government's vast propaganda potential on the South, I doubt that the so-called technical assistance would be well received.

Any student of history knows that deep seated local problems cannot be solved by verbiage that is shipped prefrozen from distant places. The authors of the civil rights bills seem to share my doubts, at least to a degree, since they propose to equip the Secretary of Health, Education, and Welfare with powers beyond those of friendly per-

suasion. They include an annual authorization of \$2,500,000 to be used by the Secretary to hire specialists, to hold conferences, and to publish propaganda.

Title III of the legislation provides grants to areas where desegregation in public education is being carried out. As far as I have been able to ascertain, there is no limit placed on the amount of funds which can be requested for this purpose. If these provisions constitute an effort to pay Southern States to integrate their schools, I am certain they would prove of little value.

Should such tactics prove unsuccessful, as I am confident they would, the Secretary is then authorized to take administrative action under title IV to enforce school integration and, of course, here again he can request the appropriation of funds for this purpose.

If all else fails, the Secretary under title V then reports to the Attorney General who is authorized to institute a civil action against the noncomplying State or local officials.

Should the enactment of these provisions result in forced integration of the schools, it could only mean in my State of Alabama the end of the public school system as we know it today. Alabama's distinguished Governor, the Honorable John Patterson, stated unequivocally to the committee only yesterday that the people of Alabama "will scrap their public school system rather than submit to the integration of the races."

Title VI of H.R. 3147 is one of the most sweeping and dangerous proposals ever to come before the Congress of the United States. It would infringe on the States' police powers, threaten free speech, subject citizens to a crossfire of loosely worded laws, and smash the barriers between Federal and State Governments.

Section 601 of title VI empowers the Attorney General to bring suits in behalf of persons who say they are being deprived of or threatened with the loss of equal protection of the laws because of race, religion, color, or national origin. It would be quite possible for a paranoiac to trigger any number of court actions at the expense of the U.S. Government, just because he happens to belong to a minority race or religion. This provision would open the door of every courtroom in the country to all sorts of malicious mischief. Litigation would be endless. At the same time, it would defame the majesty of the law to the point where popular respect for judicial decisions would be seriously undermined.

Section 602 of the same title puts the bulldozer of Federal power right into every State's backyard by arming the Attorney General with powers to protect State and local officials in civil rights actions. This puts State officials in the unique position of being caught in a tug of war between State and Federal power. It is very probable, for instance, that a State official might be able to comply with a Federal directive only by defying his State's laws. Thus, his compliance may lead to his dismissal or recall. It is quite possible, then, that such a provision might eventually result in bringing an entire State, from the Governor on down, within the range of dictatorship powers of a U.S. Attorney General.

The next section is similar to the one just discussed, although it deals with deprivations of rights guaranteed under the 14th amendment to the Constitution. It, too, is sweeping, all inclusive, and com-

pletely incompatible with our American system of government. For instance, it permits the bringing of a suit against anyone who deprives or threatens to deprive any person of his rights under the 14th amendment.

It is reasonable to conclude that innumerable law suits could be launched on mere hearsay.

It is my firm conviction that, if enacted, this legislation will make an irretrievable shambles of our Federal union and its component States.

Turning to another bill, H.R. 4457, we find that title II of it deals with the bombing of educational religious structures. I must confess that I fail to see the relevance of this portion of the bill to the civil rights issue. Generally, the essence of civil rights legislation has been the attempt on the part of other sections of the United States to force a change in the outlook and attitude of the South. Federal legislation has been proposed, and sometimes enacted, in full knowledge of the fact that it collided head on with southern public opinion. Yet, this basic element is lacking in the case of bombings of schools or houses of worship. Responsible citizens throughout the South deplore such acts of vandalism, and there is no evidence to suggest that Southern law enforcement agencies are remiss in their duty to prosecute to the fullest extent of the law. Consequently, I cannot understand the need for Federal intervention.

Title III of H.R. 4457 deals with the preservation and disclosure of election records. It is not so much the letter as the spirit of this provision that troubles me. The election process is the most sensitive part of any democracy. It is imprudent to fashion legal weapons that might conceivably be used to manipulate this process. It is indeed inconsistent to bestow the right to vote on any individual or group with the right hand while, at the same time, taking away essential democratic safeguards with the left hand.

With reference to the Civil Rights Commission, the record will show that I expressed my opposition to the creation of the Commission when I appeared before this committee in 1957. It was my opinion then that the Commission's power of subpoena was far too broad, and I still believe that to be the case. In addition, however, I feel that the history of the Commission demonstrates beyond the shadow of a doubt that the entire concept is impracticable. Having spent most of its time digging frantically, but not too successfully, for actual, living evidence of civil rights denials, the Commission is now firmly mixed in a dead-end street. At the same time, the Commission's appearance in the State of Alabama further widened rather than narrowed the breach between the races. I therefore fail to see the necessity of allowing the Commission to continue for another 2 years as a burden to the taxpayers.

The remaining provisions of H.R. 4457 deal with methods by which the ubiquitous power of the Federal Government can be brought to bear on the Southern States. Like the other two bills I have discussed, H.R. 4457 envisages the mobilization of the Federal Government's vast financial and persuasive powers.

There are several other so-called civil rights bills now pending. Some are more violent, others more moderate; but all are either inadmissible or superfluous in concept. Two of these bills, H.R. 351

and 619, range far and wide over the entire field of so-called civil rights. They even revive antilynching and antipoll tax provisions in spite of all the evidence that the Southern States are fully capable of handling these matters without Federal assistance.

We have heard many comments about the need for so-called civil rights legislation to bolster American prestige abroad. I suggest to you gentlemen that the first thing that we as Americans owe the world and posterity is the preservation of our Federal system. It has proved to be the only system capable of protecting human dignity and preserving democracy in a large modern country. We are living in an age that has a frightening inclination to bury the individual under large, impersonal, monolithic structures. This tendency is evident in the free world, as well as in the Communist nations. We, in America, have the most effective weapon against this onrush of the dark ages—a decentralized Federal system that keeps the roots of democracy alive. Democracy must flow from the people to the Government, and the flow must be steady in order to keep the Government healthy. This flow can never be reversed; democracy cannot be imposed from above by decree.

Vigorous local and State governments protect the sources of our democracy. If the effectiveness of these governments is impaired, democracy will waste away. This philosophy is certainly not original. It is axiomatic to every student of modern democratic government. Yet, we are being asked to ignore it in order that a transitory political end may be gained.

In my opinion, Mr. Chairman, the passage of further so-called civil rights legislation will impede rather than accelerate the progress of the Southern Negro. At the same time, the adoption of any of these measures can only mean further encroachment by the Federal Government on powers traditionally within the field of State authority. Therefore, I urge that the so-called civil rights bill be given unfavorable consideration by this committee.

Thank you, gentlemen, for your attention.

Mr. ROGERS. Thank you, Mr. Selden. We certainly appreciate your appearance here, and we are glad to receive your thoughts as they relate to civil rights legislation.

The next witness will be introduced by our colleague from Tennessee, a member of this committee, Mr. Loser.

Before you proceed, I want the record to show that the Honorable Tom Murray, Chairman of the Post Office and Civil Service Committee, is in the room, and has been here a long time patiently listening to the testimony. We are glad to have you, Chairman Murray.

Proceed, Mr. Loser.

Mr. LOSER. Mr. Chairman, and the distinguished gentleman from Ohio, Mr. McCulloch. Let me say that I deem it a privilege to come before this subcommittee and introduce to you, or may I say present, a distinguished Tennessean. But before I do that may I express my deep appreciation to the acting chairman of the subcommittee and the gentleman from Ohio, for having extended to these gentlemen who have appeared here from the southland in opposition to this bill for your generous and your considerate and courteous hearing.

I regret exceedingly that the distinguished chairman of this great committee, and the chairman of this subcommittee, and so many mem-

bers of this subcommittee have not appeared here to hear what the South had to say about these pending measures.

Mr. Chairman, the gentleman I want to present to you, as I said, is a distinguished Tennessean. For a number of years he served in a high place in State government as one of the commissioners, the commissioner of finance and taxation. Later on he presided over a court of equity in Tennessee for a number of years, and during the past several years he has been the very distinguished attorney general for the great State of Tennessee. The Honorable George F. McCanless, and I am very happy to present him to the subcommittee.

Mr. ROGERS. Thank you, Mr. Loser.

Come forward, General McCanless.

I think I should state for the record that the chairman of our great committee has been presiding from day to day, but this is the first day he has been absent, and two other members of the subcommittee, being of a faith that requires them to be at home at this time. Otherwise I am sure that the chairman would be here.

Mr. LOSER. I still appreciate the presence of you gentlemen.

Mr. ROGERS. Thank you, sir.

STATEMENT OF HON. GEORGE F. McCANLESS, ATTORNEY GENERAL, TENNESSEE

Mr. McCANLESS. Mr. Chairman, I deeply appreciate the kind remarks that Mr. Loser has made. He and I have been friends for a long time, and he has been good to me for all that time. I am deeply in debt. I am very grateful for the presence this morning of our distinguished Representative Murray.

Mr. ROGERS. We welcome you back. Haven't you been before us before?

Mr. McCANLESS. Mr. Chairman, I remember very pleasantly the very courteous cross-examination that you administered to me about 2 years ago, and I am happy to be back with you.

Mr. ROGERS. Thank you, sir. We are glad to have you back.

Mr. McCANLESS. Mr. Chairman and distinguished members of the committee: May I express my thanks for this opportunity to make a statement about the bills designated as H.R. 3147 and H.R. 3148, to which I am opposed. His Excellency Buford Ellington, Governor of Tennessee, has asked me to extend his greetings to the members of the committee and to express his regret that an engagement of several weeks' standing has made it impossible for him to appear before you and voice his opposition to these bills.

My first reference is to title VI of H.R. 3147 and to H.R. 3148 which would confer upon the Attorney General of the United States the authority to institute—

for or in the name of the United States a civil action or other proceeding for preventive relief, including an application for an injunction or other order, against any individual or individuals who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory or subdivision or instrumentality thereof, deprives or threatens to deprive such person or group of persons of the right to the equal protection of the laws by reason of race, color, religion, or national origin and against any individual or individuals acting in concert with them.

Clearly, the suits authorized by this provision could be brought not only against State and local officers to deter official action but also against individual citizens whenever the Attorney General should decide that a person had been deprived or threatened with deprivation of some right under circumstances within the provision just quoted.

Under the principle of the reserved powers of the States there can be no doubt that the Congress would be without jurisdiction to enact legislation of the kind now under study if it were not for the provision of the 1st section of the 14th amendment to the Federal Constitution, which forbids the denial by any State to any person within its jurisdiction of the equal protection of the laws. The draftsmen of these bills have skillfully sought to bring them within the limited provisions of this equal protection clause, but the Supreme Court itself has consistently refused to extend the scope of this clause beyond that signified by the language used therein. We find in the opinion in the comparatively recent case of *Shelley v. Kraemer*, 334 U.S. 1, 92 L. Ed. 1161, at page 12 of U.S. and page 1180 of L. Ed., this statement:

The 14th amendment erects no shield against merely private conduct, however discriminatory or wrongful.

It is thus clear that, to the extent that the bills in question undertake to ordain sanctions against private individuals in redress or discriminations or wrongs committed against other individuals, they find themselves without basis in the Constitution.

As I have already said, the legal proceedings that the Attorney General would be authorized to institute could be against private citizens in their private capacities as well as against State and local officers: Such a precedent could be grave in its consequences and this and other legislation patterned after it, and the litigation that might be prosecuted under its authority, could be used as a weapon of tyranny to impair seriously the rights and liberties of all the people. I urge that power so pregnant with evil should never be conferred upon any official.

I seriously object to the provision in H.R. 3147 that the Secretary of Health, Education, and Welfare may prescribe and put into effect a plan for the elimination of racial segregation in the public schools of a State, municipality, or school district. This would be an intolerable invasion of State sovereignty and should not be authorized. The provision that grants of Federal money may be made to localities which are in the process of eliminating racial segregation in their schools is evil in principle: It would provide for the purchase by the Federal Government for cash of the consent of the States and their political subdivisions to the Secretary's program. The suggestion is deplorable.

It will not be inappropriate for me to remind the committee that for the past 5 years the people of the Southern States have lived under a heavy burden of dread. They have seen the Supreme Court of the Nation put aside the precedents of more than a century; they have experienced an assault upon their social order of a kind and intensity not experienced in this country since the shameful years of the reconstruction. The southern American is as law abiding, as patriotic, as stanch, and as charitable as the citizen of any other region. He and his forebears have lived in this land of ours for two centuries and more and he is second to none in his appreciation and love of the traditions that have made America great. He requires no tutelage in per-

sonal or civil morality from his brother of the North or the West. What he needs and needs so badly now is a small measure of kindness, of sympathy, of patience; his dangers, his problems, his hopes require understanding; his virtues deserve a degree of appreciation.

This is not the time for coercive or punitive legislation; it is a time for forbearance and charity.

Mr. ROGERS. Thank you, General.

Mr. McCANLESS. Thank you, Mr. Chairman.

Mr. ROGERS. We appreciate your appearance.

Mr. McCANLESS. Thank you, sir. It is a pleasure.

Mr. ROGERS. The committee will now be in recess until 10 o'clock tomorrow morning.

(Whereupon, at 12:45 p.m., the subcommittee recessed to reconvene at 10 a.m., Friday, April 24, 1959.)

CIVIL RIGHTS

FRIDAY, APRIL 24, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE No. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:10 a.m., in room 346, Old House Office Building, Hon. Byron G. Rogers presiding.

Present: Representatives Rogers (presiding) and Meader.

Also present: William R. Foley, general counsel of the subcommittee, and Richard C. Peet, associate counsel.

Mr. ROGERS (presiding). The subcommittee will be in order.

Yesterday the Honorable Bruce Alger, representing the 5th District of Texas, was present and entered a statement. However, he wants to supplement and testify further in that connection. So we will hear from our colleague, Bruce Alger, from Dallas, Tex.

Mr. Alger.

STATEMENT OF HON. BRUCE ALGER, A REPRESENTATIVE IN CONGRESS FROM THE FIFTH CONGRESSIONAL DISTRICT OF TEXAS

Mr. ALGER. Mr. Chairman, I shall start most succinctly and be very brief. So I am going to start with my conclusion. My conclusion is this: This is not the time for further civil rights legislation. Progress is being made.

Number 2: The Civil Rights Commission's findings should be more carefully studied before further action is taken.

Number 3: Haste is the greatest danger at this time, and, Number 4, following after haste is the danger of political pressure by both great political parties seeking votes.

That is my conclusion.

Now, Mr. Chairman, having said that, I have said it all. I would only say this in addition: I come from a district of about 900,000—maybe the biggest in the country now. We have a sizable Negro population; we are getting along fine. I have been active in YMCA work and active with Negroes of the church and YMCA for years and, very frankly, we just don't have the civil rights problem, apparently, that many other sections of the country have. Yet we are very aware of the difficulties when legislation forces on us patterns contrary to the development of our own society.

Now I say, too, Mr. Chairman, that in the debate I took an active part in the civil rights debate on the floor 2 years ago and then I vainly attempted to get my colleagues to tell me what civil rights

they were talking about, and I direct the same question here or at any time.

Yesterday I listened to some very learned gentlemen and they talked plainly about integration. Civil rights to me is a much greater thing. I was the one who endeavored, for example, on the floor of the House, since nobody would tell me what the civil rights were, to make the right to work one of those as an amendment on the floor and I was ruled out of order, that this was not germane, by a very, very unusual decision by the Chair which might be of interest to you to study.

Now I repeat to you, gentlemen, that while the bills that I have been able to look at, for example the bill sponsored by the gentleman from New York, H.R. 3148, the distinguished chairman, says "to insure equal protection of the laws." Well, this bill does not say what the one said 2 years ago, at the bottom of page 16: "Civil rights, including the right to vote." The right to vote was the only civil right that really we ever got out of that debate. Nobody went into the basic rights, which are freedom of speech, freedom of assembly, freedom of the press, freedom of worship, freedom to come and go that the Bill of Rights gives us.

Now if there is inequity or injustice to any people in this country, I, like you, want equal protection of the law, but let us not in haste, with the political pressure exerted with campaigns ahead of us, where we want the Negro vote, if that is what it is, let us not in haste, as I see it, write legislation that may jeopardize some of these other rights as we try to protect what we think to be one right or civil rights that are being jeopardized.

I am very concerned in this particular bill, which is a very brief one that I have read—H.R. 3148—with the fact that the Attorney General will have unlimited power, as I see it. There is no limit to the staff, and when the full force of the U.S. Treasury is put against any citizen who is then a party to a suit as defendant, what are we going to do—give him a public defender at Treasury expense, or is the lone citizen to be subjected to the full weight of the U.S. Attorney General and his staff throwing the book at him, in effect.

I am puzzled by the language that says or threatens to—on page 2—create an area of uncertainty as to what might be the need for Federal suit, leaving it again entirely at the discretion of the Attorney General. To me this could be the inauguration, while I am sure it is not, of a police state and I am just looking at the language. I am not particularly concerned, because I think it is like prohibition. If you put laws on the South, gentlemen, that aren't going to stick no matter how dearly the northern and eastern brethren will want them, they are not going to stick.

Now, that is a rather independent statement to make to you, but I think prohibition is the keynote or the precedent in that regard that I recall, and I don't believe that justly northern people endeavoring to correct, to set the house in order in the South is going to take a Federal law if it doesn't match local custom and usage, but just the same I don't think it is right to pass a law merely if it is to get political votes—to get votes politically. I think very definitely you should study the Civil Rights Commission's findings, and Dean Storey of SMU law school was one member of that Commission who will not serve in the future, but I think I, like yourselves, should study even

more the findings of this Commission before we immediately plunge into new legislation. After all, we just passed the civil rights bill in the last Congress.

So I conclude, Mr. Chairman, by saying we should not act in haste. We should not do anything to any degree just because there is political pressure behind this, and my conclusion is that civil rights legislation at this time will be a grave mistake.

Thank you very much.

Mr. ROGERS. Thank you, Mr. Alger.

Mr. ALGER. I will expose myself if anybody wants to ask questions. I will be delighted to answer them.

Thank you.

(The following statement was submitted :)

STATEMENT OF BRUCE ALGER, FIFTH DISTRICT OF TEXAS

Mr. Chairman, I am Bruce Alger, Fifth District of Texas.

I come only because I felt that my silence could be misconstrued.

I represent one of the largest districts in the United States, approximately 900,000 people. Much of that is a metropolitan area, approximately 575,000 being in the city of Dallas.

The fifth district has no civil-rights problem that we cannot solve locally. I have worked in the YMCA ever since I was a boy. I have been in numerous fund-raising drives with the Negro laymen and ministers of the churches, the leaders of our community, and I simply make the statement to you and to this committee that we have no civil-rights problem that we cannot solve ourselves.

We have fine schools, and we have fine relationships. As a small businessman, I was privileged to have Negroes in my employ. We just did not have problems.

Mr. Chairman, the timing of this legislation is wrong. Following so soon after the civil-rights bill of the 85th Congress, sufficient time has not been allowed to judge accomplishments or to permit adjustments to the Federal legislation by residents of the South. Unfortunately the problem has been complicated by the efforts of those who intentionally or not have incited race hatred and discontent. More Federal civil rights bills at this time, I feel, will increase this damage and not accomplish the proponents' avowed intentions. On the contrary, race relations can be strained; problems created that do not now exist.

Even as protection of civil rights allegedly may be sought for some, there can easily be civil rights violation of many. As our own Judge William Atwell, of Dallas, said when civil rights are forced through legislation: "Where there are civil rights there can be civil wrongs." To repeat, I feel that the timing of this bill is wrong.

Now as to the substance of civil rights bills, basically I do not believe that we can legislate social relations even though I agree there are situations in which human beings make mistakes in dealing with other human beings. This does not immediately mean, however, a Federal solution or Federal legislation. It could simply establish the need for further local effort and for local and State law enforcement. Failure to recognize this and hastily to pass more Federal law would be a great mistake.

Now to whatever degree this bill and other civil rights bills are the result of pure politics, that is, the seeking of the Negro vote rather than the seeking of a proper solution to the problem, then we have bad legislation. We all know the political jockeying going on in Congress, as throughout the Nation, over controversial issues. I must say with all the force at my command, to whatever degree civil rights legislation is politically inspired, to that same degree it will fail in its objective, and I say this to members of both political parties.

As to specific bills before this committee, for example, H.R. 3148, the bill introduced by the distinguished chairman of the Judiciary Committee, the effect of its language is difficult to understand. Merely saying the words in a Federal bill will not accomplish the desired results. I could analyze this bill line by line, pointing out that the bill is all-comprehensive in bestowing upon the Attorney General of the United States complete control of all our lives, or if interpreted in another way and not enforced it could mean nothing.

As a believer in States rights, I see no reason to bypass local and State law and courts. Further, when the United States becomes a party to the suit, unlimited funds and manpower are available against the resources of the man sued by the United States. This bill therefore could easily be used improperly for the prosecution of citizens in matters quite foreign to civil rights as we here define them.

As a matter of fact, what are these civil rights? During the entire course of the civil rights debate in the House, in the 85th Congress, I endeavored to establish a definition of these civil rights other than the right to vote. The recurring phrase "civil rights, including the right to vote" is found throughout the civil rights bill of the 85th Congress. These rights should be listed, and then studied wherein the alleged problems must be solved, with an eye also on the amendments to the Constitution to see that other rights are not infringed upon.

Admittedly there are areas of agreement where Federal law might strengthen existing local law, particularly in cases of violence. But it is very important that, in hastily moving federally to create new legislation we do not infringe upon other basic rights, such as freedom of speech, freedom of assembly, and the like.

Not the least significant is the matter of the increased bureaucracy required under the terms of the bill relating to the broad jurisdiction of the Attorney General to file suit.

All of us to a man for civil rights. We are also against sin. The question raised by this bill is whether in an alleged protection of civil rights we now jeopardize our rights. We are bestowing upon the Attorney General a bureaucratic power that is of a nature government by man and not government by law.

In summary, it should be remembered that we are not dealing simply with another specific need for legislation to solve a specific problem. Not at all. We are dealing now with the entire Bill of Rights so that no matter what the alleged infringement of those rights, we cannot hastily abridge other rights guaranteed by the Constitution. As I see it, this is not the time for further civil rights legislation. Progress is being made. The Civil Rights Commission's findings should be more carefully studied. Haste is the greatest danger. Political pressure is another danger. Time and sober judgment by men of good will everywhere can solve these problems. Mr. Chairman, it is my hope that this committee and the Congress will see fit not to hastily pass civil rights legislation at this time.

Mr. ROGERS. Our next witness will be introduced by the Honorable George Grant, representative from the State of Alabama.

I note the presence of almost the entire delegation present here this morning from the State of Alabama.

Proceed.

STATEMENT OF HON. GEORGE M. GRANT, A REPRESENTATIVE IN CONGRESS FROM THE SECOND DISTRICT OF ALABAMA

Mr. GRANT. First let me thank this committee for the courtesy in which the committee has received the witnesses who have appeared here from the State of Alabama, and I might say that some might think—certainly I would not—that the chairman of this committee, Mr. Celler, and some members of the committee might have a fixed opinion on this legislation. But I do want to say, in fairness to Mr. Celler and to the other members of the committee, that I have never seen a chairman of a committee be more courteous, more painstaking and give as much time—I might say all the time that has been requested by the witnesses. I say this is in the spirit of fair play; and I think it speaks well, not only for congressional committees of this Congress, but particularly for the Judiciary Committee which handles so much of our legal legislation.

We have this morning from the State of Alabama to testify a very distinguished lawyer who for a number of years has been engaged in law enforcement. He is a dedicated public servant. He is a firm believer in law and order. He was for a number of years assistant attorney general of the State of Alabama and during the last administration was chief assistant attorney general of the State of Alabama. He had a great deal to do with cleaning up crime in certain places in the State of Alabama.

As I said, he is now attorney general, and, I repeat, he is dedicated to law and order. He is making a determined effort to see that all people in all classes in the State of Alabama have equal protection of the law, and I am glad to introduce to the committee at this time our attorney general, of whom all Alabama is proud, the Honorable MacDonald Gallion.

Mr. ROGERS. General Gallion, you may proceed in your own manner. You may be seated, if you want.

STATEMENT OF HON. MacDONALD GALLION, ATTORNEY GENERAL, ALABAMA, ACCOMPANIED BY WILLARD W. LIVINGSTON, CHIEF ASSISTANT ATTORNEY GENERAL, ALABAMA

Mr. GALLION. Mr. Chairman and members of the committee, in making preparation to appear before this committee to testify on proposed civil rights bills and amendments to the present Civil Rights Act of 1957, I first requested that copies of these bills be forwarded me for study. I was frankly expecting to be the recipient of a mere handful of bills, assuming that the principal proponents of the bills would have first conferred among themselves as to the matters and things that they wished contained therein. Much to my amazement, I was supplied with a flood of bills, introduced by quite a number of Congressmen, covering a wide variety of subject matter, and in many cases either duplicate in scope or basically the same, with minor changes.

Now, I am sure that many of the Members of Congress are sincere in the legislation they advocate. I cannot help but feel, after reading a number of these bills, that there is a total lack of sincerity in many of them. The great majority of the bills have a preamble that has the suspicious tenor of a political speech directed toward the gaining of favor of minority groups in a particular Member's bailiwick.

In view of the large number of House bills presented, I do not intend to discuss in lengthy detail the contents of each of these so-called civil rights bills. I will make reference to some of these bills and my associate, Mr. Willard Livingston, the chief assistant attorney general of Alabama, will perhaps go into more detail.

Mr. ROGERS. You want him up here with you now?

Mr. GALLION. Yes, sir. Mr. Livingston is here.

Mr. ROGERS. Mr. Livingston, just identify yourself for the record.

Mr. GALLION. Mr. Chairman, this is Mr. Willard Livingston, the chief assistant attorney general of Alabama.

Mr. ROGERS. All right. Thank you.

Mr. LIVINGSTON. Thank you, sir.

Mr. GALLION. Mr. Chairman and members, I wish to register strong opposition to all the bills inasmuch as I feel that they are all com-

pletely unnecessary and would constitute a further shocking encroachment of the centralization of Federal Government over State authority, and can only fan the flame of a situation that already exists.

I appeared before a similar committee in 1957 and expressed my concern, and, therefore, my opposition to various bills that were then being drafted, the total result of which came out as the Civil Rights Act of 1957. My concern was well founded, as events have proven in my State. The previous harmonious relationship that existed between the colored and white races in my State has greatly deteriorated. The breach was beginning to widen at the time of the tragic school desegregation decision of the U.S. Supreme Court in 1954, and this has continuously widened with the persistent agitation of individuals and groups outside the South since that time to force integration upon the South. A definite barrier is being built up by the continuous pressure of the Federal Government to invade the sovereignty of the State on matters that have been traditionally handled at the local level. No longer is there proper communication between the two races, and a satisfactory working arrangement of mutual trust and respect, each for the other, has been replaced by suspicion and wariness.

Alabama, as has many of her sister States of the South, until recently has been one of the poorer States and has been used as a whipping boy. During Reconstruction days, after the War Between the States, the economic plight was most serious. Alabama and the other States of the South have had to literally pull themselves up by their bootstraps to the level of prosperity they now enjoy. The greatest recipient of a higher standard of living in the South has been the Negro. Instead of being downtrodden and held back, as apparently pictured throughout the rest of the Nation, the gains of the Negro of the South in bettering himself have been nothing less than astonishing. The whites of the South have been the ones that have in the main footed the bill.

I would be hopeful that each of you could understand with clarity the tremendous impact that has resulted from the school desegregation decision of 1954 and the ensuing trend of events in the racial field since this day.

The State of Alabama has bled her poor economy in the past to eke out every available penny to improve her situation in the educational field, and this improvement has been for her citizens, both Negro and white. Relying on the separate but equal doctrine which through the years had been the prevailing law of the land, the people of Alabama invested hundreds and hundreds of millions of dollars in school buildings from one border of the State to the other. The State has in recent years been spending approximately one-third of its total tax income on education, and local communities have supplemented this effort. It is true that there are many dilapidated and rundown Negro school buildings, but for each such school you find you will also find within a short radius of miles an equally dilapidated rundown white school building. On the other hand, we also have many fine school structures that we are proud of and this includes Negro schools as well as white schools. There are actually more white children going to schools in substandard school buildings than there are Negro children, and Negro teachers are actually paid more on the average than white teachers in Alabama.

Today Alabama and other States of the South are faced with chaos in education. The people have demonstrated time after time that they simply will not have integration in the public school systems forced down their throats. With racial tensions increased because of the 1954 decision, it is a tragic thing indeed that Federal pressure continues in the form of such approaches as the Civil Rights Commission and the ever sterner so-called civil rights bill that are sponsored.

If we ever needed concerted action of all of our people working together at such a time in world history, it is at the present time. If we ever needed a harmonious relationship of all of the races, it is at the present time. If we ever needed a concentration of effort in the educational field to remain abreast of our common enemy, it is at the present time. However, it has appeared that while Russia was concentrating on an invasion of outer space our own Federal Government was concentrating on the invasion of Central High School in Little Rock. The people of Alabama bitterly resent the continuous encroachment of the Federal Government on State's affairs. They bitterly resent the sponsorship of the Civil Rights Commission and the various so-called civil rights bills, and view this action as not only punitive in nature but in direct conflict with the principles laid down by our Founding Fathers when this Nation first saw birth. They feel it is contrary to the concepts of government—that concept of government recognizing the sovereignty of individual States—as first laid down by the Founding Fathers.

The fear persists that in the creation of the Civil Rights Commission is the creation of a monster now directed at the South, that may well turn later to devour the East, West, and North, also.

It would appear to me to be wise that Congress take full cognizance of the recent denunciation pronounced by the chief justices of the entire United States gathered together at Los Angeles last fall, wherein they expressed their alarm for the trend of the decisions of the U.S. Supreme Court in its court interpretations that lean violently toward Federal centralization. This is no more than a protest against Federal encroachment in the field of the rights of the sovereign States, and the same basic viewpoint was announced in scathing terms by the American Bar Association in convention at Chicago. I believe that was in January. The American Bar Association, of course, is composed of thousands and thousands of outstanding lawyers from every section and part of the Nation.

Now, gentlemen, with these preliminary remarks, I voice my very strongest opposition to all of these bills.

H.R. 2538 extends the life of the Civil Rights Commission to January 2, 1961.

H.R. 619 provides for a permanent Civil Rights Commission.

To these and all other similar bills I voice my opposition. For reasons hereinbefore enumerated, I state that these bills should be allowed to die a natural death. My position is that if this committee is sincerely interested in bettering the race relations of the white and colored people in Alabama at the present time they would recommend that not only the Civil Rights Commission now formed be allowed to expire, but that they curtail any further activities in the State at all.

H.R. 353, H.R. 914, and perhaps others, advocate antilynching legislation. If I had not read some of these bills, I actually wouldn't believe some of the contents. H.R. 353 heads section 4 with the caption "Right To Be Free of Lynching." Now, stop and think for just a moment of that caption. The "Right To Be Free of Lynching." Now doesn't the caption itself reveal profound thinking ultimately leading to a revolutionary discovery in the field of human rights? So much has been said of the "unenlightened South" that I had assumed that other sections of our Nation are enlightened, at least to some basic degree. If the tragedy of ignorance wasn't woven into such a bill as this, any serious discussion would assume the proportions of a comic opera.

We have not had a lynching in Alabama, to the best of my knowledge, in more than 20 years. If an isolated instance has occurred, it has escaped my attention. Do the proponents, I ask, of such a bill actually believe that we have daily or weekly lynchings as a matter of routine? I'm beginning to wonder just who needs enlightenment. Of course we have State statutes making it a criminal offense to participate in or commit an act of lynching, and the penalties, gentlemen, are more severe than that provided here. Section 6 of H.R. 353 says if you aid in or commit an act of lynching you can be fined \$1,000 or imprisoned for a year, or both; provided, however—and this is a gem—if the lynching results in serious physical or mental injury the punishment might be as much as \$10,000 and 20 years' imprisonment. Now can you imagine a lynching that didn't result in serious physical or mental injury? It taxes my imagination to visualize otherwise.

Of course we are against lynching, and I certainly would feel that I would be derelict in my duty as attorney general not to vigorously prosecute any such offenses if they should occur. However, we do say to Congress not to invade upon our State police powers and confine yourselves, if you please, to fields of legislation properly belonging to you.

If I was surprised at the lack of enlightenment outside the South regarding the antilynching bills, imagine my astonishment to see this in title V of H.R. 619:

Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude, shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both.

Now, does a Congress of these United States in the year 1959 actually think it is necessary to pass legislation preventing slave traffic in the South today and calling to a halt of slave running vessels to the coast of Africa? Gentlemen, I simply will pass on from here without further comment.

H.R. 617 relates to public accommodations, entertainment, and the like. The substance of it is to integrate or be punished up to \$1,000 fine and go to jail for a year, and this is made a felony. For such offense to stamp a person as a felon is abhorrent.

The so-called Civil Rights Act of 1959.

H.R. 430, H.R. 913, H.R. 3212, H.R. 461, and H.R. 3147 are all substantially the same. H.R. 300 and H.R. 2786 are also substantially the same, except that they upped the amount of money to be wasted. The one thing the Congressmen do have in common is that they all condescend to have their particular bill credited to them as the Civil Rights Act of 1959.

Following preambles that shame the preambles of the Articles of Confederation, the Constitution of the United States, and the verbiage of the Magna Carta all thrown together, title II provides in each instance for the Secretary of Health, Education, and Welfare to render technical assistance to local governmental units from States all the way down to school districts to enter into compliance with the Supreme Court desegregation decision.

The Secretary will distribute information, make surveys, meet with various officials in discussion groups, set up advisory councils and report frequently to Congress. Now just how one man was going to do all this worried me at first until I came to section 202, where I found out he can employ an untold number of specialists who can mill all about the South doing this for him. Perhaps to keep the traffic clear they in turn can have private individuals or groups meet them at given places and these people in turn will have their expenses paid for getting to talk to each other.

Then we come to title III, and here I will get most serious, for here we come to a most solemn and diabolical offer. For implementing integration in any governmental unit that unit will become qualified for grants of money. How dispicable is such an offer. It is no more than a bribe to purchase for cold cash the principles and convictions of an honorable section of our Nation, and I think this is repugnant to good conscience and our past American standards. It is a force bill that would bring tears to the eyes of George Washington, Thomas Jefferson, and all of our Founding Fathers were they here to witness it. No, gentlemen; certainly our honored Congress of the United States of America would not stoop so low. Certainly Members of Congress from all sections of our Nation will join hands to defeat the substance of these bills.

Time does not permit me to elaborate on other proposals offered. I do want to conclude by saying this:

There is no real reason for the Civil Rights Commission to exist or for any such acts to be passed. I opposed the Civil Rights Act of 1957 and my reasons for doing so have been justified. Apparently first aimed at securing voting rights for the Negroes of the South, the results have not been forthcoming because the results were not there initially to obtain. The propaganda swallowed just simply did not prove true.

Now, of course, we may have isolated instances of improper voter registration denials, and this is for both white and Negro, but generally speaking you will find applicants in Alabama allowed the voting franchise when properly qualified.

In the Birmingham News, a respectable news media in our State, they just recently conducted a thorough statewide survey and found this to be true without question. Negro voter registration in Alabama, as well as economic and educational advances, has been astounding. The great majority of the Negro masses realize this. It is only

the handful of agitators that you apparently listen to. Today the number of Negro registered voters is estimated at 60 to 70 thousand, an amazing increase, especially in the last few years.

We have adequate laws in this field and they are fairly administered. And I ask you this: Do you think that we are all out in our opposition to the Federal suit in the Macon County case solely because 20 Negro complaints are involved? I ask you what do 20 voters amount to in a mass of 70,000 voters as far as we are concerned?

No, gentlemen, ours is the cause of State's rights. Ours is the fight to maintain constitutional government; to maintain that concept of government that recognizes the sovereign rights of the States as was originally contemplated by our Founding Fathers; to maintain that concept of government that recognizes a separation of powers and jurisdictions between the Federal Government and each individual State. It is this that has made this Nation the greatest nation ever to rise on the face of the earth. Let us not destroy this.

Thank you.

Mr. ROGERS. General, may I inquire do you know the Civil Rights Commission was in your State along in December or January, was it not?

Mr. GALLION. Yes, sir.

Mr. ROGERS. And wasn't it necessary for the Commission to issue subpoenas to get some of the records? Are you familiar with that situation?

Mr. GALLION. Yes, sir.

Mr. ROGERS. Will you tell the committee just what the issues were, as you understood them, and the result of them?

Mr. GALLION. Well, I think the last statement that I made—the basic issue as far as the feeling of the people in Alabama is that of the invasion and encroachment of the Federal Government in matters of purely State control traditionally. The Civil Rights Commission came in to Montgomery. It looked like Ringling Brothers and Barnum and Bailey arriving in town. I admit that one of the employees of the Commission had stated that he would have me a seat as the incoming attorney general. However, on two occasions I couldn't even get in the hearing room for the TV cameras and radio equipment and newspaper and magazine reporters, principally from the Northern States, and the position taken was that we were going to control those records.

I did not participate in those hearings. I was a spectator the one time that I was able to get through the battery of cameramen and announcers and reporters.

Mr. ROGERS. Then it is your thought that it was a circus put on by the Commission down there?

Mr. GALLION. It certainly was. They had live TV right in the hearing room. They had radio piped out to a nationwide broadcast, and as the incoming attorney general of Alabama not that I value my importance so highly, but I was interested in getting in to observe what was going on. I couldn't get past the crowded hearing room area.

Mr. ROGERS. Did you participate in the request; that is, the Civil Rights Commission's request? They had to go to the Federal court to try to get some of the voting records.

Mr. GALLION. No, sir. You see, I have been assistant attorney general, it is true, but I resigned to make my race for attorney general and I had no official connection with the State at the time. I was to be inaugurated, which I was, on January 20 and I was there purely as a private attorney to observe the Civil Rights Commission hearing.

Now, of course, I have participated in the Federal suit in the Macon County case which followed.

Mr. ROGERS. Don't the laws of Alabama require that those who are eligible to vote be registered and the record be kept of that by somebody in Alabama?

Mr. GALLION. Yes, sir. That is true.

Mr. ROGERS. And who is that person?

Mr. GALLION. Well—

Mr. ROGERS. Under the laws of Alabama, as an example, who keeps the records?

Mr. GALLION. They are retained by the board of registrars. And when their use for them is over, they are turned over to the judge of probate.

Mr. ROGERS. Then do they have to register each election or is it a continuing thing?

Mr. GALLION. It is a continuing thing as long as they qualify. That is by paying their poll tax, which incidentally has been reduced to \$1.50.

Mr. ROGERS. Is there any other requirement? What are the requirements to be an elector in Alabama?

Mr. GALLION. Mr. Livingston, Mr. Chairman, was going to go into that. However, I will be glad to, if you would like.

Mr. ROGERS. It is all right with me. That appears to be one issue you indicated in your statement. The question of voting rights appeared to be one of the contentions, that the Negroes down in the South don't vote and one of the contentions is that they are not permitted to vote; that whenever they get ready to go over and register there is nobody there to register them, so if they are not registered they can't vote and I just wondered what system was used in registration in Alabama.

Mr. GALLION. Mr. Chairman, I don't know whether you heard me a moment ago when I referred to the survey that the Birmingham News, one of the leading newspapers in the State, made.

Mr. ROGERS. You said there were sixty to seventy thousand.

Mr. GALLION. That is right, and I also made the statement that the State as a whole was freely registering all applicants found qualified, as a general rule, and I contend that that situation exists regardless of race or color or religion.

Mr. ROGERS. What do they have to do to register in Alabama? Would you just outline briefly the qualifications?

Mr. GALLION. Do you want the voter qualifications?

Mr. ROGERS. Yes.

Mr. GALLION. Well, I will sum it up. I could read it, but it would be too lengthy. I think I know it well enough to sum it up.

In the first place, you have to be 21 years of age and have qualifications of residence in the State, and that is 2 years. Then you are subject to disqualification under section 182 of the constitution, and briefly those disqualifications are these: All idiots and insane persons,

those who shall by reason of a conviction of a crime be disqualified, those convicted of treason, of murder, arson, embezzlement, malfeasance in office, larceny, receiving stolen property, obtaining property or money under false pretenses, perjury, subornation of perjury, robbery, assault with intent to rob, burglary, forgery, bribery, assault and battery on the wife, bigamy, living in adultery, sodomy, incest, rape, miscegenation, crime against nature or any crime punishable by imprisonment in the penitentiary. Now that is basically your qualifications. Also the requirement is that the applicant must be able to read and write the English language. I think all of these requirements parallel about every State in the Union. There is nothing unique about that.

It is also provided that they have to be of good character and embrace the duties and obligations of citizenship under the Constitution of the United States and under the constitution of the State of Alabama.

Then the applicant fills out a questionnaire. The questionnaire is uniform to all parties. There is no exception. It is prepared by the Supreme Court of Alabama. I have a copy of it here. I can hit some of the points, but all of them are basic questions and it applies to everyone equally, but the series of questions are such as your name, your date of birth, your occupation, how long have you lived in the State and so forth.

Mr. MEADER. Might I ask the witness to please read that one qualification about good character and embracing the Constitution? Would you read that in its exact language?

Mr. GALLION. I think it is in about every State voter registration statute in the United States. There is nothing unusual about it:

* * * those who can read and write any article of the Constitution of the United States in the English language which may be submitted to them by the board of registrars. No persons shall be entitled to register as electors except those who are of good character who embrace the duties and obligations of citizenship under the Constitution of the United States and under the constitution of the State of Alabama. * * *

I do want to point out if there is any thought, Mr. Congressman, because of the phraseology there of "good character," you will find that in about every State in the Union, but there is no play on that.

Mr. ROGERS. Who determines whether the character is good or bad?

Mr. GALLION. Mr. Congressman, I don't know of a single instance that has ever come up on that point as far as a denial of any applicant. It follows the tenor of the same theme. It is in just about every State, and you might say it might be considered surplusage.

Mr. ROGERS. You have in your hand the questionnaire that all voters must fill out?

Mr. GALLION. Yes, without exception, and it is uniform. In fact, the constitutional provision setting it up requires uniformity—the same questions asked, the same application, and they are not unusual.

Well, let me tell you what it says here and this is quoting from the constitution:

* * * the form and contents of which questionnaire shall be prescribed by the Supreme Court of Alabama and be filed by such court with the secretary of state of the State of Alabama * * *.

The questionnaire has a routine listing of questions: Name, married or single, address, how long have you lived in the State, are you self-employed, have you ever been denied registration before, has your name ever been stricken from the list before, are you a dope addict or habitual drunkard, if so, explain—dates and information relative thereto; have you ever been legally declared insane and, if so, give details; brief statement of your education and experience; have you ever been charged with a crime, convicted of a criminal offense; were you honorably discharged or dishonorably discharged; do you support the Constitution of the United States and the State of Alabama; have you ever been affiliated with any group that would overthrow the U.S. Government; will you bear arms for your country; do you believe in free elections and rule by the majority; will you give aid and comfort to the enemies of the U.S. Government or the government of the State of Alabama; name some of the duties and obligations of citizenship, post office address. That is about it. There is no deviation from that to any extent.

Mr. MEADER. Mr. Chairman, might I suggest that it would be helpful in understanding the testimony of the witness if the excerpt relating to the qualifications of voters and also the questionnaire be furnished to us?

Mr. GALLION. I would be glad to furnish the committee with both.

Mr. ROGERS. We would be glad to receive it and make it part of the record, both as to voting qualifications and as to the questionnaire.

(The documents are as follows:)

CONSTITUTION OF ALABAMA 1901—AMENDMENT XCI

VOTERS' QUALIFICATION AMENDMENT

SEC. 181. The following persons, and no others, who, if they are citizens of the United States over the age of twenty-one years and have the qualifications as to residence prescribed in section 178 of this article, shall be qualified to register as electors provided they shall not be disqualified under section 182 of this constitution: those who can read and write any article of the constitution of the United States in the English language which may be submitted to them by the board of registrars, provided, however, that no persons shall be entitled to register as electors except those who are of good character and who embrace the duties and obligations of citizenship under the constitution of the United States and under the constitution of the state of Alabama and provided, further, that in order to aid the members of the boards of registrars, who are hereby constituted and declared to be judicial officers, to judicially determine if applicants to register have the qualifications hereinabove set out, each applicant shall be furnished by the board of registrars a written questionnaire, which shall be uniform in all cases with no discrimination as between applicants, the form and contents of which questionnaire shall be prescribed by the supreme court of Alabama and be filed by such court with the secretary of state of the state of Alabama, which questionnaire shall be so worded that the answers thereto will place before the boards of registrars information necessary or proper to aid them to pass upon the qualification of each applicant. Such questionnaire shall be answered in writing by the applicant, in the presence of the board without assistance, and there shall be incorporated in such answer an oath to support and defend the constitution of the United States and the constitution of the state of Alabama and a statement in such oath by the applicant disavowing belief in or affiliation at any time with any group or party which advocated the overthrow of the government of the United States or the state of Alabama by unlawful means, which answers and oath shall be duly signed and sworn to by the applicant before a member of the county board of

registrars. Such questionnaire and the written answers of the applicant thereto shall be filed with the records of the respective boards of registrars. The board may receive information respecting the applicant and the truthfulness of any information furnished by him. Those persons who have registered as electors under the Alabama constitution of 1901 shall not be required to register again. Provided, further, that if solely because of physical handicaps the applicant is unable to read or write, then he shall be exempt from the above stated requirements which he is unable to meet because of such physical handicap, and in such cases a member of the board of registrars shall read to the applicant the questionnaire and oaths herein provided for and the applicant's answers thereto shall be written down by such board member, and the applicant shall be registered as a voter if he meets all other requirements herein set out.

SEC. 182. The following persons shall be disqualified both from registering, and from voting, namely :

All idiots and insane persons; those who shall by reason of conviction of crime be disqualified from voting at the time of the ratification of this constitution; those who shall be convicted of treason, murder, arson, embezzlement, malfeasance in office, larceny, receiving stolen property, obtaining property or money under false pretenses, perjury, subornation of perjury, robbery, assault with intent to rob, burglary, forgery, bribery, assault and battery on the wife, bigamy, living in adultery, sodomy, incest, rape, miscegenation, crime against nature, or any crime punishable by imprisonment in the penitentiary, or of any infamous crime or crime involving moral turpitude; also, any person who shall be convicted as a vagrant or tramp, or of selling or offering to sell his vote or the vote of another, or of buying or offering to buy the vote of another, or of making or offering to make a false return in any election by the people or in any primary election to procure the nomination or election of any person to any office, or of suborning any witness or registrar to secure the registration of any person as an elector.

ELECTORS AND VOTERS

[Title 17, Section 12, as amended, Code of Alabama 1940]

Qualification of elector to vote.—Every citizen of this state who is a citizen of the United States, and every resident of foreign birth, who, before the ratification of the present constitution of the state, shall have legally declared his or her intention to become a citizen of the United States, twenty-one years old or upwards, not laboring under any of the disabilities named in section 15 of this title, and who shall have resided in this state at least one year, in the county six months, and in the precinct or ward three months, immediately preceding the election at which he offers to vote, and who shall have been duly registered as an elector, and shall have paid, on or before the first day of February next preceding the date of the election at which he or she offers to vote, all poll taxes due from them for the next two preceding years, shall be an elector, and shall be entitled to vote at any election by the people.

[Title 17, Section 15, Code of Alabama 1940]

Disqualifications of elector to vote.—The following persons shall be disqualified both from registering and voting: All idiots and insane persons; those who were by reason of conviction of crime disqualified from voting at the time of the ratification of the constitution on November 28, 1901; those who have been since November 28, 1901, or who shall be convicted of treason, murder, arson, embezzlement, malfeasance in office, larceny, receiving stolen property, obtaining property or money under false pretenses, perjury, subornation of perjury, robbery, assault with intent to rob, burglary, forgery, bribery, assault and battery on wife, bigamy, living in adultery, sodomy, incest, rape, miscegenation, crime against nature, or any crime punishable by imprisonment in the penitentiary, or of any infamous crime or crimes involving moral turpitude; also any person who has been since November 29, 1901, or who shall be convicted as a vagrant or tramp, or of selling or offering to sell his vote, or the vote of another; or of buying or offering to buy the vote of another, or of making or offering to make false return in any election by the people, or in any primary election to procure the nomination or election of any person to any office, or of suborning any witness or registrar to secure the registration of any person as an elector.

REGISTRATION

[Title 17, Code of Alabama 1940—Section 21]

Registrars; appointment of.—Registration shall be conducted in each county by a board of three reputable and suitable persons to be appointed by the governor, auditor and commissioner of agriculture and industries, or by a majority of them acting as a board of appointment, and who must be also qualified electors and residents of the county and who shall not hold an elective office during their term. One of said members shall be designated by the board of appointment as chairman of the board of registrars for each county. Provided, however, that in counties of over three hundred and fifty thousand population, according to the last or any subsequent federal census, that the governor shall appoint the chairman of the board of registrars.

[Section 22]

Terms of office.—The registrars so appointed under this article may be removed at the will of the appointing board, or a majority of the members thereof, at any time, with or without cause, and without giving their reasons therefor; and if not so removed, the registrars may hold office for four years from the time of their appointment and until their successors are appointed.

[Section 23]

Vacancies of registrars; how filled.—If one or more of the persons appointed on such board of registration shall refuse, neglect, or be unable to qualify or serve, or if a vacancy or vacancies occur in the membership of the board of registrars from any cause, the governor, auditor and commissioner of agriculture and industries, or a majority of them acting as a board of appointment, shall make other appointments to fill such board.

[Section 26, as amended]

Board of registrars to hold fixed meeting and give notice thereof.—The board of registrars in each county shall visit each precinct at least once and oftener if necessary between October first and December thirty-first, 1939, and each two years thereafter, to make a complete registration of all persons entitled to register, and shall remain there at least one-half a day. They shall give at least twenty days' notice of the time when, and the place in the precinct where they will attend to register applicants for registration, by bills posted at three or more public places in each election precinct, and by advertisement once a week for three successive weeks in a newspaper if there be one published in the county. Upon failure to give such notice or to attend any appointment made by them in any precinct, they shall, after like notice, fill new appointments therein. The time consumed by the board in completing such registration shall not exceed thirty working days in any county, except that in counties having more than three hundred thousand population as shown by the last preceding census, the time shall not exceed seventy-five working days. The board of registrars in each county shall meet at the courthouse on the third Monday in January 1940, and each two years thereafter and shall remain in session ten working days for the registration of voters.

[SECTION 31, AS AMENDED]

Examination and oath of applicants to register.—The board of registrars shall have power to examine, under oath or affirmation, all applicants for registration, and to take testimony touching the qualifications of such applicants. In order to aid the registrars to judicially determine if applicants to register have the qualifications to register to vote, each applicant shall be furnished by the board a written questionnaire, which shall be uniform in all cases with no discrimination as between applicants, the form and contents of which questionnaire shall be prescribed by the supreme court of Alabama and be filed by such court with the secretary of state of the state of Alabama. The questionnaire shall be so worded that the answers thereto will place before the registrars information necessary or proper to aid them to pass upon the qualifications of each applicant. The questionnaire shall be answered in writing by the applicant, in the presence of the board without assistance. There shall be incorporated in such answer an

oath to support and defend the constitution of the United States and the constitution of the state of Alabama and a statement in such oath by the applicant disavowing belief in or affiliation at any time with any group or party which advocated the overthrow of the government of the United States or the state of Alabama by unlawful means. The answers and oath shall be duly signed and sworn to by the applicant before a member of the board. Such questionnaire and the written answers of the applicant thereto shall be filed with the records of the board of registrars. If solely because of physical handicaps the applicant is unable to read or write, then he shall be exempt from the above stated requirements which he is unable to meet because of such physical handicap, and in such cases a member of the board shall read to the applicant the questionnaire and oaths herein provided for and the applicant's answers thereto shall be written down by such board member; and the applicant shall be registered as a voter if he meets all other requirements herein set out. Each member of the board is authorized to administer the oaths to be taken by the applicant and witnesses.

[SECTION 32, AS AMENDED]

Persons qualified to register.—The following persons, and no others, who, if they are citizens of the United States over the age of twenty-one years and have the qualifications as to residence prescribed in section 178 of the constitution, shall be qualified to register as electors provided they shall not be disqualified under section 182 of the constitution; those who can read and write any article of the constitution of the United States in the English language which may be submitted to them by the board of registrars. No persons shall be entitled to register as electors except those who are of good character who embrace the duties and obligations of citizenship under the constitution of the United States and under the constitution of the state of Alabama.

[SECTION 35, AS AMENDED]

Right of appeal from registration.—Any person to whom registration is denied shall have the right of appeal, without giving security for costs, within thirty days after such denial, by filing a petition in the circuit court at law or court of like jurisdiction held for the county in which he or she seeks to register, alleging that he or she is a citizen of the United States over the age of twenty-one years having the qualifications as to residence prescribed in section 178 of the constitution and entitled to register to vote under the provisions of the constitution of Alabama, as amended. Upon the filing of the petition, the clerk of the court shall give notice thereof to the circuit solicitor authorized to represent the state in said county, who shall appear and defend against the petition on behalf of the state. The issues shall be tried in the same manner and under the same rules that other cases are tried in such court, and by a jury, if the petitioner demands it. The registrars shall not be made parties and shall not be liable for costs. An appeal will lie to the supreme court in favor of the petitioner if taken within thirty days from the date of the judgment. Final judgment in favor of the petitioner shall entitle him or her to registration as of the date of his or her application to the registrars.

LYNCHING

[Title 14, Code of Alabama 1940]

§ 354. *Abusing or beating accused person, or lynching.*—Any two or more persons who abuse, whip, or beat any person, upon any accusation, real or pretended, to force such person to confess himself guilty of any offense, or to make any disclosures, or to consent to leave the neighborhood, county, or state, shall, on conviction, each be fined not less than five hundred dollars, and may be imprisoned in the county jail, or sentenced to hard labor for the county for not more than twelve months.

§ 355. *Lynching; mob defined.*—Any number of persons assembled for any unlawful purpose and intending to injure any person by violence and without authority of law shall be regarded as a mob, and any act of violence exercised by such mob upon the body of any person shall, when such act results in the death of the injured person, constitute the crime of lynching; and any person who participates in or actively aids or abets such lynching shall, on conviction, suffer death or be imprisoned in the penitentiary not less than five years, at the discretion of the jury, and any person, who being a member of any such mob and present at any such lynching, shall not actively participate in the lynching, shall be deemed guilty of abetting such lynching, and, on conviction, shall be imprisoned in the penitentiary not less than one year nor more than twenty-one years, at the discretion of the jury.

§ 356. *Sheriff, deputy, or jailer, permitting lynching of prisoner.*—Any sheriff, deputy sheriff, or jailer who negligently or through cowardice allows a prisoner to be taken from the jail of his county, or to be taken from his custody and put to death by violence, or to receive bodily harm, shall, on conviction, be fined not less than five hundred nor more than two thousand dollars, and may also be sentenced to hard labor for the county for not more than two years.

DYNAMITE OR OTHER EXPLOSIVES

[Title 14, Code of Alabama 1940]

§ 123. *Exploding or setting off dynamite; penalty for.*—Any person who wilfully sets off or explodes any dynamite or other explosive in, under or dangerously near to any steam boat or vessel or railroad car in which there is at the time any human being, or any prison or jail or any other house or building which is occupied by a person lodged therein or any inhabited dwelling house or any house adjoining such house whether there is at the time in such house adjoining a dwelling house a human being or not shall on conviction be punished at the discretion of the jury by death or by imprisonment in the penitentiary for not less than ten years.

§ 124. *Setting off explosives under public building or uninhabited dwelling; penalty for.*—Any person who wilfully sets off or explodes any dynamite in, under or dangerously near to any church, meeting house, court house, town house, college, academy, jail or other building erected for public use, or any banking house, warehouse, cotton house, gin house, store, manufactory or mill, or any railroad car, railroad engine, street car or automobile, car shed, barn, stable, cotton house or cotton pen containing cotton, or corn pen containing corn, or any shop or office or other house within the curtilage of any dwelling house or any uninhabited dwelling house or unoccupied dwelling house or steam boat or vessel in which there is at the time no human being shall on conviction be punished by imprisonment in the penitentiary for not less than two years or more than ten years.

§ 125. *Exceptions from chapter.*—This chapter shall not apply to or include explosions had or caused in case of necessity to prevent the spread of fire, nor to ordinary legitimate uses of explosives for mechanical purposes, where there is no intent to injure another, or his property, and no wanton negligence in the use of the explosives.

SLAVERY

[Constitution of Alabama 1901]

SEC. 32. That no form of slavery shall exist in this state; and there shall not be any involuntary servitude, otherwise than for the punishment of crime, of which the party shall have been duly convicted.

APPLICATION FOR REGISTRATION. QUESTIONNAIRE AND OATH

I, _____ do hereby apply to the Board of Registrars of _____ County, State of Alabama, to register as an elector under the Constitution and laws of the State of Alabama, and do herewith submit answers to the interrogatories propounded to me by said Board.

Name of Applicant

QUESTIONNAIRE

1 State your name, the date and place of your birth, and your present address _____

2. Are you married or single: _____ (a) If married, give name, residence and place of birth of your husband or wife, as the case may be: _____

3. Give the names of the places, respectively, where you have lived during the last five years, and the name or names by which you have been known during the last five years. _____

4 If you are self-employed, state the nature of your business _____

(a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses: _____

5. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: _____ (a) When did you become a bona fide resident of _____

County: _____ (b) When did you become a bona fide resident of _____ Ward or precinct _____

6. If you intend to change your place of residence prior to the next general election, state the facts: _____

7. Have you previously applied for and been denied registration as a voter _____ (a) If so, give the facts: _____

8. Has your name been previously stricken from the list of persons registered _____

9. Are you now or have you ever been a dope addict or an habitual drunkard: _____ (a) If you are or have been a dope addict or an habitual drunkard, explain as fully as you can _____

10. Have you ever been legally declared insane: _____ (a) If so, give details: _____
11. Give a brief statement of the extent of your education and business experience. _____

12. Have you ever been charged with or convicted of a felony or crime or offense involving moral turpitude _____ (a) If so, give the facts: _____

13. Have you ever served in the Armed Forces of the United States Government _____ (a) If so, state when and for approximately how long: _____
14. Have you ever been expelled or dishonorably discharged from any school or college or from any branch of the Armed Forces of the United States, or of any other country _____ (a) If so, state the facts: _____

15. Will you support and defend the Constitution of the United States and the Constitution of the State of Alabama: _____
16. Are you now or have you ever been affiliated with any group or organization which advocated the overthrow of the United States Government or the government of any State of the United States by unlawful means: _____ (a) If so, state the facts: _____

17. Will you bear arms for your country when called upon by it to do so: _____ (a) If you answer no, give reasons: _____

18. Do you believe in free elections and rule by the majority. _____
19. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama. _____

20. Name some of the duties and obligations of citizenship: _____

- (a) Do you regard those duties and obligations as having priority over the duties and obligations you owe to any other secular organization when they are in conflict: _____
21. Give the names and post office addresses of two persons who have present knowledge of your present bona fide residence at the place as stated by you: _____

OATH

STATE OF ALABAMA COUNTY

Before me, _____, a registrar in and for said county and state, personally appeared

_____, an applicant for registration as an elector, who being by me first duly sworn deposes and says: I do solemnly swear (or affirm) that the foregoing answers to the interrogatories are true and correct to the best of my knowledge, information and belief. I do further solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alabama; that I do not believe in nor am I affiliated with, nor have I been in the past affiliated with any group or party which advocated or advocates the overthrow of the government of the United States or of the State of Alabama by unlawful means.

Sworn to and subscribed before me in the presence of the Board of Registrars this the _____ day of _____, 19____

Member of the Board of Registrars for _____ County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA COUNTY

Before the Board of Registrars in and for said State and County, personally appeared

_____, an applicant for registration who being by me, _____
(Full name of applicant)

_____, a member of said Board, first duly sworn as follows: "I do solemnly swear (or affirm) that in the matter of the application of _____ for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows

My name is _____, and I have heretofore executed the "Application for Registration, Questionnaire and Oath" submitted to me by the above-named Board of Registrars

In addition to the information given on said "Application for Registration, Questionnaire and Oath," I depose and state as follows

1 I was previously registered in the following State and County in the years named _____

(If applicant has never been registered in Alabama or any other state, he should so indicate)

2 I have never been convicted of any offense disqualifying me from registering
(Board should call applicant's attention to Section 162, Constitution, and Title 17, Section 15, Code of Alabama 1940. If applicant cannot make foregoing statement, facts shall be ascertained and registration refused, unless fully pardoned and right to vote restored)

3. My present place of employment is _____

4 I know of nothing that would disqualify me from being registered at this time

REMARKS

(Signed)

(Name of Applicant)

Sworn to and subscribed before me this the _____ day of _____, 19____

(Member of County Board of Registrars)

ACTION OF THE BOARD

STATE OF ALABAMA _____ COUNTY

Before the Board of Registrars in session in and for said State and County personally appeared _____
(Name of Applicant)

who executed the foregoing application in the manner and form therein stated. The Board having further examined said applicant under oath, touching his qualifications under Section 181, Constitution of Alabama, 1901, as amended, and having fully considered the foregoing Application for Registration, Questionnaire, and Oath, and Supplemental Application for Registration, and Oath as executed, adjudges said applicant entitled to be registered and he was duly registered on this the _____ day of _____, 19____, in _____ precinct (or ward) in said county.

(Signed) _____
Chairman(Signed) _____
Member(Signed) _____
Member

(Note: The act of actually determining an applicant entitled to be registered is judicial. A majority of the Board must concur. A majority must be present. The power cannot be delegated. Each member present must vote on each application. Not until this is done may a certificate be issued the applicant.)

EXAMINATION OF SUPPORTING WITNESS

STATE OF ALABAMA _____ COUNTY

Before the County Board of Registrars in and for said State and County personally appeared

_____, who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of _____ for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

My name is _____, My occupation is _____, I reside at _____, My place of business or employment is at _____

The name of my employer is _____ I am a duly registered, qualified elector in _____ precinct (or ward) in _____ County in the State of Alabama. I have known the applicant

_____ (Give Applicant's name) for _____ years (or months). He is a bona fide resident at _____ and to my knowledge has resided thereat for the past _____ years (or months). I know of no reason why he is disqualified from registering under the Constitution and laws of Alabama enacted in pursuance thereof.

Space for further remarks

(Signed) _____

Sworn to and subscribed before me in the presence of the Board of Registrars this the _____ day of _____, 19____.

(Signed) _____
(Member of the Board)

Note: This application blank, when duly executed, on the final preparation of the "lists" of persons registered, must be delivered by the Board of Registrars to the Probate Judge of the County, whose duty it is to safely preserve it and all accompanying papers. See Title 41, Section 141, Code of Alabama, 1940.

Mr. GALLION. If the committee please, I would be happy to furnish a copy of all of the voting laws in pamphlet form. I would be happy to give it to the committee.

Mr. MEADER. We could receive it for the committee files.

Mr. ROGERS. We will receive those for the files. As you know, one of the contentions is that a lot of people don't vote down that way, and we are trying to—

Mr. GALLION. Mr. Rogers, let me point this out to you, since you brought that up. In 1940 there were approximately—these are the best figures we can obtain, I don't say that they are completely accurate down to the nth degree, but they are good estimates—in 1940 there were approximately 2,000 qualified Negro voters in the State of Alabama. In 1946 this total had risen to approximately 6,000. In 1952 there were around 25,000 Negro registered voters. By 1954 the number of Negro voters was approximately 50,000. Today the Negro registered voters in the State of Alabama number approximately 70,000. I think that is astounding. I think that should answer your question.

Mr. ROGERS. We had something in the newspapers about the ability of professors and whatnot down in Tuskegee Institute to be able to register. Do you know anything about that?

Mr. GALLION. Yes, sir. I think I know to what you are referring. We have in the breast of the court at the present that matter and the Federal District Court ruled in our favor. It is now on appeal to the Fifth U.S. Circuit Court of Appeals in New Orleans and is to be heard May 1. Now there are 20 complainants in that case. I don't feel that I could go into any detail about our position other than I think that the position of the State of Alabama is well justified and since it is in the breast of the court, I don't care to reveal any defenses that we have. But I repeat that we in Alabama administer our voting laws fairly, and if they are qualified, they will obtain their registration.

I will give you one example. I don't want to reveal more, but on one questionnaire the party failed to answer three times in a row whether he had been convicted of a crime. Certainly we feel justified that that man is not qualified.

Mr. ROGERS. Has there been any change in the Alabama law recently in connection with the registration and qualification of voters?

Mr. GALLION. No, sir; not as far as qualifications are concerned.

Mr. ROGERS. What about the situation that we have heard about—at least it was in the press—that certain registrars just resigned, that there is nobody out there to register them?

Mr. GALLION. There was only one case of that and that was brought about by the invasion of the Civil Rights Commission. They resigned when the Civil Rights Commission came into the State and started issuing subpoenas right and left and you can't blame some of those people. The average board of registrar members assume that responsibility as a civic duty and to come in and to have the hot breath of the Federal Government on the back of his neck with unknown troubles ahead of them; certainly they don't accept it for the financial remuneration. It is a civic duty. They are paid very little. But up until that time and that is what brought about the resignation of the two members; they had their board of registrars.

Mr. ROGERS. Do you feel that if the Civil Rights Commission comes down there and tries to ask for some more records that will result in more people resigning?

Mr. GALLION. Mr. Rogers, every time the Civil Rights Commission will come into the State of Alabama, it will create turmoil and chaos. That is my position, sir.

Mr. ROGERS. Any questions?

Mr. MEADER. I want to make reference to or call attention to the numerous bills introduced in the House and I want to be sure you are aware that under the rules of the House, bills cannot be jointly submitted as they are in the Senate.

Mr. GALLION. I am happy to have that explanation.

Mr. MEADER. You cannot have more than one sponsor of a bill. Some Members of Congress who have feelings on the subject might introduce identical bills.

Mr. GALLION. Yes, sir.

Mr. MEADER. With reference to your testimony about the hearing on the Civil Rights Commission, did you receive an invitation to attend their session?

Mr. GALLION. Mr. Meader, a Colonel Rosenfeld, who I believe is with the complaints department—I don't know exactly his official title—had stopped by to ask me some questions about housing and one thing and another, prior to the hearing and at that time he stated that—he asked me if I would be at the hearings coming up and I told him that naturally I was interested, that I would be there, but as a spectator, and he said, “Well, we will see that you have a chair reserved.”

Now that much is true. But when I went to attend, I couldn't get through the door to get in because of the cameramen and the TV equipment and the newspaper reporters and announcers. I did get in on one occasion.

Mr. MEADER. I noticed you made quite a point of radio, television, and news coverage of the hearings of the Commission.

Mr. GALLION. Yes, sir. It was a circus-like atmosphere.

Mr. MEADER. As you know, of course, the Senate has no rule against radio and television coverage of the public sessions of their committees. That is not the case in the House. I rather regret that the House is excluded, by a ruling of the Speaker, from having adequate means for its work to come to the attention to the American public. I think the American public has a legitimate interest and a right to know about meetings of this kind, for example, and I gather that you more or less disapproved of adequate coverage of the public hearings.

Mr. GALLION. I know the general public is entitled to be informed, but at the same time I think something of such serious consequence to my people down there in Alabama and the problems involved should have some aspects of dignity about it.

Mr. GRANT. Mr. Chairman, pardon me for interrupting but I can't sit silently by. If you will permit, I want to give you my word as a Member of the House of Representatives. My office in the district is right across the hall from where this circus was held. For about a couple weeks before the hearing was set, I heard nails and hammers and lumber going in there and I went in one day. It was

a rather small room that they had and they were building a platform and I asked why the platform was being built. The workers didn't know. Finally I went down to the custodian of the building, who is the son of the custodian with the General Services Administration and I tried to find out who had the authority to come in like that, like advance circus men 2 weeks before the hearings and to set up at Government expense platforms and to hire men, hire carpenters, and build this platform, and I am going to find out before this measure comes to the floor, if this committee points it out, and makes a point against any Government agency going in and spending money to build platforms to hold a circus. I think as a prosecutor for 25 years, I think as a Member of the Congress it is the most disgraceful thing that has ever happened with a Commission going out as an arm of this administration and as an arm of this Government and particularly of this House. I think it was a disgrace to make plans for such a big show. It was done for one purpose and one purpose alone, not to let the people of this country see, but to just have a circus.

Mr. ROGERS. Let the record show that the gentleman just addressing the committee is the Honorable George Grant from Alabama.

Do I understand that your district office was in the same building?

Mr. GRANT. In the same building and this building and planning went on ahead of time and the taxpayers of this country were paying for it, and I would like to know what authority this so-called "Civil Wrongs Commission" or Civil Rights, as some call it, has to go out and go to the expense of building this showplace.

Mr. ROGERS. Where were those platforms built?

Mr. GRANT. They were built in the room where the hearing was held.

Mr. ROGERS. For TV?

Mr. GRANT. For TV and for the radio, getting ready for the kill.

Mr. ROGERS. Counsel has a question.

Mr. PEET. Mr. Attorney General, is there pending or has there passed, in recent weeks or months of the Alabama Legislature, a measure having to do with the preservation of voting records?

Mr. GALLION. That is right. It is a discretionary measure that they must retain for a period of 30 days the records and after such time do with them what they please. It is purely in the board of registrars of the particular county's discretion, and I want to point out the reason for the 30 days there. Under Alabama law any applicant who has been denied registration can appeal within 30 days to the circuit court of the State, and I want to point out that it is a trial de novo in the circuit court and if he prevails in the circuit court, the State of Alabama can't appeal.

Mr. ROGERS. What is the cost in docketing the appeal?

Mr. GALLION. There is no security for cost.

Mr. ROGERS. Is bond posted by the appealing party who is denied registration?

Mr. GALLION. I am glad you asked me that question. He posts no bond.

Mr. ROGERS. If I fill out the registration questionnaire and the registrar refused it, I can walk over to the clerk of the circuit court and say "I appeal this man's decision"?

Mr. GALLION. Yes, sir.

Mr. ROGERS. And then it becomes the duty of the judge automatically to pass upon it?

Mr. GALLION. No, sir. You have your right of appeal as in any other law suit, but you do not have to post any security for cost.

Mr. PEET. Could you tell us how the provisions of this new bill, compare with the provisions of the law that it replaces insofar as the time for the preservation of voting records is affected?

Mr. GALLION. There was actually a void in the law. There was no previous law.

Mr. PEET. What was the custom?

Mr. GALLION. Well, they usually kept them, kept the records, retained them at the courthouse.

Mr. PEET. Do you feel that the House and the Senate are the judges of the qualifications of their own Members? Election days are normally held in the first week of November each year. If the records are destroyed within 30 days or after 30 days from that date, then these records would not be in existence at the time the new Congress would be meeting in Washington. Is that not true under the provisions of the new bill?

Mr. GALLION. I don't know. In the first place, so far as I know, not the first record has been destroyed in the State.

I don't exactly get your question though.

Mr. PEET. In other words, if the provisions of the new bill provide that voting records will be destroyed or can be destroyed after 30 days—30 days from the normal time of holding a congressional election would bring you to early December.

Mr. GALLION. Now wait a minute. You say 30 days after a general election.

Mr. PEET. Congressional election.

Mr. GALLION. We are talking about registration, 30 days after denial of registration. It is not an election we are talking about; it is your application, when you are turned down for registration.

Mr. PEET. Then this would be before the November election even?

Mr. GALLION. Well, according to the registration dates—I can give them to you. There are different periods of time for voter registration, in order to maintain an orderly system.

Mr. PEET. My point is simply that under these provisions the registration records would not be in existence at the time the new Congress meets in January of the year following the election.

Mr. GALLION. They don't register for every election, Mr. Counsel. Let me give you the registration dates.

Mr. ROGERS. I think what he is getting at is simply this, that after the election, as he points out, on the 4th of November, would the new law permit the registrars or those in charge of the books to destroy the books and the ballots and everything within 30 days? Does the law so provide?

Mr. GALLION. It has nothing to do with ballots, Mr. Chairman. It has nothing at all to do with ballots. It is simply application for voter registration. It has nothing to do with elections; it has nothing to do with any ballots; it is merely this questionnaire.

Mr. ROGERS. That, I think, will straighten out the situation because it is the questionnaire that may be destroyed after 30 days after you have filled it out and filed it, if you have not taken it to court. After 30 days, then the registrars can burn it or throw it away.

Mr. GALLION. Yes.

Mr. ROGERS. But as to those who are qualified and who do vote, the permanent record is maintained and if they vote from year to year, they continue to be eligible and qualified unless somebody comes in and shows a—

Mr. GALLION. Unless they are disqualified for the reasons enumerated.

Mr. ROGERS. That was, I think, the question he was confused about.

Mr. FOLEY. You have not enacted any legislation as to destruction of the ballots of the election?

Mr. GALLION. No, no, and even this law referred to is a discretionary proposition, and I will say here and now that I don't know of the first questionnaire to date—there may have been some; I can't say that unqualifiedly—but to the best of my knowledge not the first one has been destroyed as of this date.

As a matter of fact, I will say this, Mr. Chairman: There is a view prevalent among a lot of us that the retention of those questionnaire rejections would be for the benefit of the State of Alabama.

Mr. PEET. Mr. Gallion, one more question: Have you heard of any instances in the South generally where voting officials have deliberately set out to substantially reduce the number of Negroes registered to vote within their State?

Mr. GALLION. I don't know. I like to stay in my own bailiwick, Mr. Counsel. I read something in Louisiana about a voter reidentification proposition they had offered there, but I would rather confine myself to the State of Alabama.

Mr. ROGERS. Thank you. Now is there anything further you wish to state?

We appreciate your testimony.

STATEMENT OF CONGRESSMAN GEORGE HUDDLESTON, JR., OF ALABAMA

Mr. HUDDLESTON. Mr. Chairman and members of the committee, at the outset let me express my appreciation for the courtesy which you gentlemen have shown me in permitting me to make a statement at this very important hearing. This is a matter of great concern, not only to the people of my district, but to our citizens all over the country.

In the zeal to enact punitive legislation directed against a particular section of our country, many people are inclined to overlook probably the most important aspect of this entire problem.

Today our Nation is confronted with the most formidable foreign enemy with which it or any nation has ever had to contend. The Soviet Union is completely and totally dedicated to the eventual destruction of the American way of life, the American system of government, and the American type of free enterprise economy. Every effort, military and civilian, on their part has the ultimate end of bet-

ter preparing themselves to defeat us in a war which they feel is inevitable.

It is unfortunate in this time of grave and almost continual crisis for America that divisive and destructive influences have been brought into play. As a southerner by birth, by education and training, and by strong sympathies, I feel that I am qualified to understand the southern mind and attitude. The continual agitation which every year is brought about in Congress to enact legislation directed against the way of life of the people of the Southern States is having a serious effect on the outlook and viewpoint of the people in that section of the country.

The hue and cry for so-called civil rights legislation which is heard at every session of Congress is dividing our people as no other issue has in the past 90 years. Not since the days of Reconstruction when Federal troops were quartered in the Southern States and the South was an occupied country have the people of the South possessed such a feeling. Up until the past few years, the period of time since the terrible days of the 1860's had seen substantial changes in the attitude of the people of the South and those great people had, after the tragedies of the War Between the States and Reconstruction, become, to my mind, among the most patriotic of American citizens. Yet in these times, when, whether wittingly or unwittingly, we are setting one race against another, one section of this great land against another, one way of life and philosophy against another, we are confronted with a grave threat from overseas, which requires unity among our people such as we have needed at no other time in our history.

If I could be so bold as to offer to you, Mr. Chairman, and the members of this great committee, one suggestion, it would be this. Let's take first thing first. Let's recognize the need for national unity in this country against our foreign enemies and once we have solved the problems which we face overseas, then we can go about doing what many people think amounts to "setting our own house in order."

It is frequently said that we Americans must do such and so because of what the Soviet Union and the Communist satellite countries, as well as those uncommitted nations of the world think about us. To that I say, we will not win world war III on the basis of what Communist Russia and the uncommitted nations think about us. We will win world war III only on the basis of our internal strength, and the unity of our people possessing a common objective and exerting themselves to the utmost to achieve that objective. To my mind, the unity and dedication of the American people is the most essential element by which we can hope to win any future contest with the Communist ideology. Thank you.

MR. LIVINGSTON. May it please the chairman and members of the committee, I would like to make a short statement.

MR. ROGERS. All right, sir.

STATEMENT OF WILLARD W. LIVINGSTON, CHIEF ASSISTANT ATTORNEY GENERAL OF ALABAMA

MR. LIVINGSTON. May it please the chairman and the committee, I would like to make a short statement. As Mr. Gallion told you, I have these particular statutes with respect to voter registration that

I was going to discuss, but since he has already discussed it, we have it ready for introduction into evidence, so I will preclude that part insofar as registration is concerned.

I would like to reidentify myself. My name is Willard W. Livingston and I am chief assistant attorney general of the State of Alabama. I have been an assistant attorney general for approximately 11 years, with a majority of that time devoted to handling tax matters and tax litigation for the State of Alabama. I came with Mr. Gallion as first assistant effective January 20 of this year, when he took office as attorney general, and, of course, I am very much interested in the proposed civil rights bills which are now under consideration.

Sometimes we get so involved in details, and if I may be permitted to use a slang expression, "we can't see the forest for the trees."

We in the South, particularly in the State of Alabama, are great State righters and that is the point that I want to just briefly discuss with this committee this morning. I would like to give a short review, and I mean very short review, of the history of this country to show the setup of the States and the Federal Government, and I am sure that this committee and all members are very familiar with it, but I want that to be made a part of this record to show how I personally feel, as well as how the people that I am up here representing feel.

I am opposed to this legislation because I do not think that it is needed. In my judgment, such legislation is aimed at the destruction of many of the basic principles which have caused this Nation to become the greatest Nation of the world. I am a firm believer in States rights and had it not been for such belief by our forefathers, this country might never have been established and organized on the basis that it was. The war for independence was fought long and hard and the new country, not yet a nation because of the weakness of the compact that bound the Thirteen Original Colonies together, struggled for her existence. We had won our independence, but we now found it necessary to pay for it. The Articles of Confederation were not adequate for this need and were insufficient to meet a common desire among the Thirteen Colonies. Eleven years after the Declaration of Independence, in 1787, the Constitution of the United States was drafted, signed, and submitted to the people of the several States.

The need for some form of national government, made necessary for the common defense, was desirable and yet the 13 independent Colonies were reluctant to surrender their independence, so recently acquired from England, to a federal government which might in time prove as dictatorial and oppressive as England has been. So fundamentally, our Constitution was an attempt to reconcile the conflicting desires of those who believed in a strong central government and those who wished to keep their government on a State and local level.

Many of the drafters of the Constitution were doubtful that the States would accept it. Leadership, tact, and even salesmanship were needed to foster this new document on to a new and troubled people. However, once the States were guaranteed the first 10 amendments, commonly called our Bill of Rights, the Constitution was adopted and the embryo of today's National Government received life.

The 10th amendment to our Constitution is a part of the peoples Bill of Rights and it is so short, yet so clear and meaningful, I would

like to read it to you with a reverence that has not found expression here in Washington for many, many long years. It provides:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

To me this means exactly what it says. It says to Congress, the President, and even to the Supreme Court of the United States, that you must look to the Constitution for any power you attempt to exercise over the people of the respective States. If you cannot find it granted to you, expressly or by necessary implication, in one of the provisions of the Constitution, then you have no power to act, because that power belongs to the States or to the people.

We in Alabama have exercised that power and have constitutional provisions and statutes relating to the very things which the proposed civil rights measures under consideration attempt to regulate. We say that these are matters, the regulation of which should be by the respective States and not by the Federal Government.

Now this is where I would get to these particular statutes that Mr. Gallion has already discussed. However, in addition to the voter registration statutes, since some of these civil rights bills refer to lynching, I have a copy of our lynching law, title 14, section 354, 355, and 356 of the Code of Alabama, 1940, and that will be attached to the exhibit with the rest of those other statutes.

I also have copies of statutes here relating to dynamiting and so forth of homes and churches and I also have a provision of our Constitution of Alabama of 1901, section 32, dealing with slavery, since one of these civil rights bills refers to prohibiting slavery. We already have provided for that. We already have on our statute books, as I have already pointed out, the necessary laws and we certainly can enforce our own statutes. We have done so in the past and it is our intention to do so in the future. Federal assistance is not needed and will be more of a hindrance to the States and will cause a wider breach between the races, particularly in the South, than already exists.

It is beyond question that the actions of the Civil Rights Commission in Alabama the latter part of last year did more to further strain the relations between the races in Alabama than any one thing. It is my understanding that one member of the Civil Rights Commission stated in substance that he saw no solution to the race question insofar as legislating against segregation and it is also my understanding that several members of the Civil Rights Commission have indicated that it was their desire to resign from the Commission.

I would like to close with a quote from the case of *People Ex Rel. King, etc. v. John Gallagher*, 93 New York 438, decided in 1883. Of course this doesn't comply with the present Supreme Court decision. I realize that thoroughly, but I pointed it out because of the language so used. This is the quote:

In the nature of things there must be many social distinctions and privileges remaining unregulated by law and left within the control of the individual citizens, as being beyond the reach of the legislative functions of government to organize or control. The attempt to inforce social intimacy and intercourse between the races by legal enactments would probably tend to only embitter the prejudices, if any such there are, which exist between them, and produce an evil instead of a good result.

Now, gentlemen, I say to you that statement is most appropriate in view of the recent developments during the last 2 or 3 years with respect to the segregation issue. Any further attempt by the Federal Government to interfere with matters, the regulation of which belongs to the States under the 10th amendment to the Constitution of the United States, can only lead to chaos and ultimate destruction of this country which has become great on the democratic principle that it is a "government of laws and not of men."

Thank you.

Mr. ROGERS. Mr. Livingston, your recital of the 10th amendment of the Constitution, of course you and I know as lawyers and recognize that that is part of the Bill of Rights that was adopted—what was it, 1789 or something?

Mr. LIVINGSTON. Yes, sir; about that.

Mr. ROGERS. And now the 14th amendment came along in 1867 or 1868, which placed some limitation upon the action of the States. Now where it says that States shall apply its laws equally and uniformly, now don't you recognize that that has some limitation on it?

Mr. LIVINGSTON. Well; yes, sir.

Mr. ROGERS. On the States.

Mr. LIVINGSTON. Yes, but we say in Alabama we have the necessary laws and we are applying them equally and as the statute points out, where speaking of registration, where someone is denied registration, he has the perfect right to take that appeal to the circuit court and to my knowledge we do not have any pending at the present time.

Mr. ROGERS. You recognize, then, that the 14th amendment does place a limitation on the States as to their rights to exercise or apply the law under the so-called 10th amendment prior to the adoption of the 14th, and that it then became a limitation. You now say that Alabama is applying its laws equally to all persons alike?

Mr. LIVINGSTON. Yes, sir; we say that.

Mr. ROGERS. Especially as to registration and voting?

Mr. LIVINGSTON. Yes, sir.

Mr. ROGERS. Of course it is out of that that you get the Supreme Court decision on May 1954, about the school situation, wherein they interpret that separate but equal facilities do not comply with the 14th amendment.

Mr. LIVINGSTON. That is right.

Mr. ROGERS. Of course the State of Alabama has had separate and equal schools all of the time, as I understand from the Governor and the rest of them. Insofar as they are concerned, they are not going to have integrated schools.

Mr. LIVINGSTON. Mr. Chairman, if I may say so, in Montgomery—of course, I am not too familiar with the schools in other cities of the State because I have not made a particular study, but in Montgomery alone I will say that the Negroes have equal if not better schools than the whites. They have been built over the last 10 or 15 years. They have now modern schools, with all the modern facilities available. I am talking about Montgomery alone.

Now, of course, I realize, as Mr. Gallion has already stated, you will find dilapidated schools, both white and Negro, most anywhere; that is true.

Mr. ROGERS. Of course the Supreme Court, in its decision of May 17, 1954, said even if you had marble halls and sleeping couches—

Mr. LIVINGSTON. I realize what they said.

Mr. ROGERS. But you separate them.

Mr. LIVINGSTON. I am not conceding I agree with what they said.

Mr. ROGERS. As lawyers in application of the law, you have a problem of what to do about it. Now the State of Alabama, as I understand, passed placement of pupils or the Pupil Placement Act, which was upheld on its face.

Mr. LIVINGSTON. That is right, which has been upheld on its face so far.

Mr. FOLEY. Do you have any cases pending in regard to that now?

Mr. LIVINGSTON. We have some in Birmingham.

Mr. GALLION. We have four applicants at Graymont Elementary School in Birmingham and four applicants at Phillips High School in Birmingham.

Mr. FOLEY. Have they taken the cases to court as yet?

Mr. GALLION. It has not reached that stage. Speaking very frankly, I anticipate that.

Mr. ROGERS. Thank you very much, gentlemen—the attorney general as well as the assistant attorney general—for your appearance here. We appreciate your thoughts.

Now I would like the record to show that the Alabama delegation is pretty well represented here this morning—Mr. Boykin, from the southern part of the State; Carl Elliott, George Huddleston, Mr. Selden, and, of course, our friend George Grant, who not only appeared here, but also testified, so we thank you for your presentation from Alabama.

Mr. LIVINGSTON. Thank you.

Mr. GALLION. Thank you, sir.

Mr. ROGERS. The next witnesses are the Reverend and Mrs. John Barnes, Hattiesburg, Miss. Reverend and Mrs. Barnes please come forward.

Mr. MITCHELL. Mr. Chairman, if I may identify myself for the record as Clarence Mitchell, director of the Washington Bureau of the NAACP. We have three witnesses here from Mississippi and with your permission, Mr. Chairman, I would like for them to sit at the table.

Mr. ROGERS. That is Mr. Charles R. Darden?

Mr. MITCHELL. Yes.

Mr. ROGERS. Is he in the room?

Mr. MITCHELL. He is right here.

Mr. ROGERS. Have him come up and pull a chair up and be seated.

Let the record show the presence of Mr. Clarence Mitchell of the Washington office of the NAACP, and he will present each witness.

Mr. MITCHELL. Thank you, Mr. Chairman.

Mr. ROGERS. If you have any statement to make in connection with it, you may proceed in your own manner.

STATEMENT OF CLARENCE MITCHELL, WASHINGTON BUREAU OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

Mr. MITCHELL. Mr. Chairman, I would like to present these individuals to the committee, but before doing so I would like to direct

the committee's attention to some testimony which you already have in the 1957 hearing record, which is somewhat different from what the previous witness testified.

First, I think it is important to point out that in Alabama, the official ballot, as you will see on page 1041 of the 1957 hearings, has a chicken at the top of the column here and over the top of that chicken there are words "white supremacy." So quite obviously you couldn't have a fair election where whoever votes has to cast a ballot under that slogan.

Then, also, there was some reference to the number of Negroes who are participating in the voting process down in Alabama. I would like to point out that the figures given by the assistant attorney general are not substantially different from those he included in the hearing record back in 1957. That appears on page 1031 of the record and represents only about 10 percent of the Negro population of voting age.

I would also like to call your attention to the witness' testimony back in 1957, when you, Mr. Chairman, directed some questions to him concerning that board of registrars down in Macon County. You recall that today in his testimony he said that they resigned because the Civil Rights Commission was coming into the States, but on page 904 of the hearing record the same witness was asked the same question by you about why the board resigned at that time and he said that there was some tenseness and that is the reason why they resigned. He said they had not been out of office very long. As a matter of fact it was about a year since that time that the board has not registered anybody. Finally the question put by counsel with reference to the preservation of registration records is all-important because the sole purpose of that effort down in Alabama is to destroy the evidence before the Federal Government can get in and where most of the discrimination takes place is when the colored people seek an opportunity to register, Mr. Counsel, so your questions really, if it is pursued, will reveal that the whole purpose of that law is to destroy the evidence before the election takes place. Of course, if you can control who is eligible to vote, you don't need to bother about any subsequent investigations on whose name is on the voting books. It is just an amazing thing to me, Mr. Chairman, how different these gentlemen talk up here in Washington from the way they talk down there on their native heath, and the things that they do. I just wish sometimes some of those television cameras that the attorney general referred to could have pictures of what goes on and sound recordings of the way they talk. You would see that it is really a Jekyll and Hyde proposition with all ranting and raving down there at home, but up here nice and polite and acting in a very deceptive way.

These witnesses who are here will speak for themselves and the first is the Reverend Mr. Barnes. He is mentioned in your hearing record in 1957 as a person who was trying to get registered to vote and he will document what has happened.

Mrs. Barnes is with him.

Mr. ROGERS. Proceed.

**STATEMENT OF REV. JOHN BARNES, HATTIESBURG BRANCH,
NAACP, HATTIESBURG, MISS.**

Reverend BARNES. Mr. Chairman, gentlemen of the committee, I am Reverend J. M. Barnes of Hattiesburg, Miss., which is in Forrest County. I am accompanied by Mrs. Barnes, my wife. I was born in Mississippi and have been living in Hattiesburg for 25 years. Mrs. Barnes was born in Hattiesburg and has lived there all of her life.

During the whole 25 years of my residence in the county, I have been unable to register and vote. In 1952 the circuit clerk, Luther M. Cox, refused to permit me to register. I have continued to try to register about four time each year, including this year, along with other Negroes, but we were refused.

Because of the frequent denials, we made a test case. We had a Negro lady who lives in the county and who appeared to be white to try to register. Without any questions whatsoever she was registered. On the same day, 14 of us attempted to register, but we were refused. That has been the condition throughout the years and it is still going on. We had an election of a new clerk and the condition has been the same since the new clerk has been in office. We went to see him 1 week after he was in office and we asked to register. He told us that we couldn't register. He said he didn't have his office set up and said for us to come back later. Mrs. Barnes asked the question: What did he mean later. He said he didn't know.

I was in the new clerk's office on March 7, 1959, to register. He wasn't present and I asked his deputy clerk to register me. She stated that she could not register me and I would have to see the clerk. Last year, on October 17, 1958, I was in the office of the circuit clerk to register, with me was Mr. Clyde Kennard. We asked if we could register and the reply was "No." I then asked if he had any reasons for not registering me. He said "No." He then asked Clyde Kennard if we belonged to the NAACP and Mr. Kennard said, "No," which he did not belong. I said, "Yes," which I do belong. I then asked the clerk if he had any reason for refusing to let us register and he said "No." Each time he did not ask us for any qualifications or present us with any blanks, he just says "No" we could not register.

After being turned down several times, I filed affidavits and also carried my case to the State election commission in 1956 by registered mail. The commission did not answer. The only reply I received was the receipt indicating that the letter had been received by them.

Now I want to say here that when we didn't get any reply from that commission, then I turned my case into the Justice Department. I filed in the Justice Department, and also the Civil Rights Committee.

Our poll taxes are paid up for the years 1952 and through 1959.

Mr. Chairman, I have photostatic copies of these receipts that I would like to offer to the committee.

Mr. ROGERS. Receipts for payment of your poll tax?

Reverend BARNES. Yes.

Mr. ROGERS. How do you pay your poll tax?

Reverend BARNES. I pay my poll tax to the sheriff's office.

Mr. ROGERS. The sheriff's office?

Reverend BARNES. Yes. They receive them there as we pay our property tax.

Mr. ROGERS. He is not the one that registers you to vote?

Reverend BARNES. No, sir; he is not the one that registers you, but the circuit court registers you.

Mr. ROGERS. Did you take those receipts with you?

Reverend BARNES. Yes, sir; I carried the receipts with me to there and I tell them I have the receipts to register, but he doesn't give us any information about that. He just says "No."

Mr. ROGERS. Well, we will receive those for the record. That is your receipt?

Reverend BARNES. These are my receipts and my wife's from 1952 through 1959.

Mr. ROGERS. We will receive them for the record.

(The receipts are as follows:)

| | | | |
|--|---------------------------------|---|--|
| SHERIFF'S OFFICE FORREST COUNTY, MISS. | | No. 5196 | |
| POLL TAX FOR YEAR 1958 | | LIBRARY | |
| Hattiesburg, Miss. | | Jan. 26, 1959 | |
| RECEIVED OF | <i>J. M. Barnes</i> | \$2.00 | |
| ADDRESS | <i>200 E 5th St</i> | | |
| MALE <input checked="" type="checkbox"/> | FEMALE <input type="checkbox"/> | AGE | WHITE <input type="checkbox"/> COLORED <input checked="" type="checkbox"/> |
| By <i>K. Vance</i> | Deputy | FORD VANCE Sheriff and Tax Collector | |

| | | | |
|---|--|---|--|
| SHERIFF'S OFFICE, FORREST COUNTY, MISS. | | No. 10168 | |
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No. 4976

Received of Richard Barker Jan 29 1956
 Address 200 E. 5th St.
 MALE ☒ FEMALE ☐ AGE 27 WHITE ☒ COLORED ☐
 By Carl Walker Deputy
 FORD VANCE Sheriff and Tax Collector

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 Address 200 E. 5th St.
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 FORD VANCE Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.
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 By W. A. Payne Deputy
 W. A. PAYNE, Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.

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[Signature] W. A. PAYNE, Sheriff and Tax Collector

Deputy

SHERIFF'S OFFICE, FORREST COUNTY, MISS.

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[Signature] W. A. PAYNE, Sheriff and Tax Collector

Deputy

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[Signature] W. A. PAYNE, Sheriff and Tax Collector

Deputy

SHERIFF'S OFFICE, WISSEY COUNTY, MISS.
POLL TAX FOR YEAR 1953
 Y. M. C. A. PRECINCT
 No 5307
 Meridian, Miss. 2-1-1954
 RECEIVED OF J. H. B. B. B. \$2.00
 ADDRESS 200 E. 3rd St.
 MALE ☒ FEMALE ☐ AGE 35 WHITE ☐ COLORED ☒
 By J. H. B. B. B. Deputy W. A. PAYNE, Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.
POLL TAX FOR YEAR 1953
 Y. M. C. A. PRECINCT
 No 5308
 Meridian, Miss. 2-1-1954
 RECEIVED OF J. H. B. B. B. \$2.00
 ADDRESS 200 E. 3rd St.
 MALE ☒ FEMALE ☐ AGE 35 WHITE ☐ COLORED ☒
 By J. H. B. B. B. Deputy W. A. PAYNE, Sheriff and Tax Collector

SHERIFF'S OFFICE, WISSEY COUNTY, MISS.
POLL TAX FOR YEAR 1953
 No 5309
 Meridian, Miss. 2-1-1954
 RECEIVED OF J. H. B. B. B. \$2.00
 PRECINCT Y. M. C. A. ADDRESS 200 E. 3rd St.
 MALE ☒ FEMALE ☐ AGE 35 WHITE ☐ COLORED ☒
 By J. H. B. B. B. Deputy W. A. PAYNE, Sheriff and Tax Collector

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By [Signature] Deputy Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISSISSIPPI

RECEIVED OF [Signature] Hattiesburg, Miss. Jan 25 19 53 \$2.00

PRECINCT 1-5-18 ADDRESS [Signature]

MALE ☒ FEMALE ☐ AGE 21 WHITE ☐ COLORED ☒

By [Signature] Deputy Sheriff and Tax Collector **W. A. PAYNE**

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By K. Lander Deputy Sheriff and Tax Collector **FORD VANCE**

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 By *A. Smith* Deputy
 FORD VANCE
 Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.
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 Hattiesburg, Miss. *1/30*
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 By *A. Smith* Deputy
 FORD VANCE
 Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.
 POLL TAX FOR YEAR 1958
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 RECEIVED OF *Burlina Turner*
 ADDRESS *200 E. 5th St*
 MALE ☐ FEMALE ☒ AGE ☐ WHITE ☐ COLORED ☒
 By *K. Hunt* Deputy
 FORD VANCE
 Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.
POLL TAX FOR YEAR 1955
 LIBRARY PRECINCT
 No. 4470

RECEIVED OF [Signature] 2.00 \$2.00
 ADDRESS 200 E. 5th St.
 MALE ☒ FEMALE ☐ AGE 29 WHITE ☒ COLORED ☐
 By [Signature] Deputy Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.
POLL TAX FOR YEAR 1956
 LIBRARY PRECINCT
 No. 4476

RECEIVED OF Purline Barber 54 \$2.00
 ADDRESS 200 E. 5th St.
 MALE ☐ FEMALE ☒ AGE 54 WHITE ☒ COLORED ☐
 By Charles W. Vance Deputy Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.
POLL TAX FOR YEAR 1956
 LIBRARY PRECINCT
 No. 4475

RECEIVED OF J. M. Barber 54 \$2.00
 ADDRESS 200 E. 5th St.
 MALE ☒ FEMALE ☐ AGE 54 WHITE ☒ COLORED ☐
 By Charles W. Vance Deputy Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.

POLL TAX FOR YEAR 1934

LIBRARY PRECINCT

No. 4976

RECEIVED OF _____

ADDRESS _____

MALE ☒ FEMALE ☐ AGE _____ WHITE ☐ COLORED ☐

By W. A. Payne Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.

POLL TAX FOR YEAR 1934

LIBRARY PRECINCT

No. 4977

Homiesburg, Miss. Jan 23 1935

RECEIVED OF Portnera B. B. B. \$2.00

ADDRESS 200 - E 5th St

MALE ☐ FEMALE ☒ AGE _____ WHITE ☒ COLORED ☒

By W. A. Payne Deputy Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.

POLL TAX FOR YEAR 1935

LIBRARY PRECINCT

No. 4489

Homiesburg, Miss. Jan 23 1935

RECEIVED OF J. M. B. B. \$2.00

ADDRESS 200 - E 5th St

MALE ☒ FEMALE ☐ AGE _____ WHITE ☐ COLORED ☐

By W. A. Payne Deputy Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.

POLL TAX FOR YEAR 1953

Nº 5386

Hattiesburg, Miss. June 14 1953

RECEIVED OF W. A. Payne \$10.00

PRECINCT Y. M. C. A. ADDRESS 715 2nd St.

MALE ☒ FEMALE ☐ AGE 35 WHITE ☒ COLORED ☐

By W. A. Payne Deputy W. A. PAYNE, Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.

POLL TAX FOR YEAR 1953

Nº 5307

Y. M. C. A. PRECINCT

Hattiesburg, Miss. 2-1 1954

RECEIVED OF 117 B. W. \$2.00

ADDRESS 200 E. 5th St.

MALE ☒ FEMALE ☐ AGE 35 WHITE ☒ COLORED ☐

By J. H. Smith Deputy W. A. PAYNE, Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.

POLL TAX FOR YEAR 1953

Nº 5308

Y. M. C. A. PRECINCT

Hattiesburg, Miss. 2-1 1954

RECEIVED OF Pauline Barnes \$1.00

ADDRESS 200 E. 5th St.

MALE ☐ FEMALE ☒ AGE 35 WHITE ☒ COLORED ☐

By J. H. Smith Deputy W. A. PAYNE, Sheriff and Tax Collector

SHERRIFF'S OFFICE, FORREST COUNTY, MISS.
 POLL TAX FOR YEAR 1951 Nº 5549

RECEIVED OF J. M. Barnes Sheriff's Miss. Jan 30 1952
 PRECINCT H. M. C. A. ADDRESS 715 New Orleans
 MALE ☒ FEMALE ☐ AGE ☐ WHITE ☐ COLORED ☒
 By Wm L. Robertson W. A. Payne
 Deputy Sheriff and Tax Collector

SHERRIFF'S OFFICE, FORREST COUNTY, MISS.
 POLL TAX FOR YEAR 1951 Nº 5550

RECEIVED OF Mrs J. M. Barnes Sheriff's Miss. Jan 31 1952
 PRECINCT H. M. C. A. ADDRESS 715 New Orleans
 MALE ☐ FEMALE ☒ AGE ☐ WHITE ☐ COLORED ☒
 By Wm L. Robertson W. A. Payne
 Deputy Sheriff and Tax Collector

SHERRIFF'S OFFICE, FORREST COUNTY, MISS.
 POLL TAX FOR YEAR 1952 Nº 5385

RECEIVED OF J. M. Barnes Sheriff's Miss. Jan 19 1953
 PRECINCT H. M. C. A. ADDRESS 715 New Orleans
 MALE ☒ FEMALE ☐ AGE ☐ WHITE ☐ COLORED ☒
 By Wm L. Robertson W. A. Payne
 Deputy Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.
POLL TAX FOR YEAR 1958
 LIBRARY

No 5196

Hattiesburg, Miss. Jan. 26, 1958

RECEIVED OF J. M. Barnes \$2.00

ADDRESS 200 E. 5th St

MALE ☒ FEMALE ☐ AGE ☐ WHITE ☐ COLORED ☒

By K. Lamp Deputy

FORD VANCE
Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.
POLL TAX FOR YEAR 1957
Library

No 10168

Hattiesburg, Miss. 1/30, 1958

RECEIVED OF Pauline Barnes \$2.00

ADDRESS 200 E. 5th St

MALE ☐ FEMALE ☒ AGE ☐ WHITE ☐ COLORED ☒

By Smith Deputy

FORD VANCE
Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.
POLL TAX FOR YEAR 1957
Library

No 10167

Hattiesburg, Miss. 1/30, 1958

RECEIVED OF J. M. Barnes \$2.00

ADDRESS 200 E. 5th St

MALE ☒ FEMALE ☐ AGE ☐ WHITE ☐ COLORED ☒

By A. Smith Deputy

FORD VANCE
Sheriff and Tax Collector

SHERIFF'S OFFICE FORREST COUNTY, MISS.
POLL TAX FOR YEAR 1955
 LIBRARY

No. 5197

Hattiesburg, Miss. Jan 26 1955

RECEIVED OF Berline Barnes \$2.00

ADDRESS 200 E. 5th St

MALE ☐ FEMALE ☒ AGE 52 WHITE ☐ COLORED ☐

By K. Rant Deputy

FORD VANCE
Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.
POLL TAX FOR YEAR 1955
 LIBRARY PRECINCT

No. 4490

Hattiesburg, Miss. Jan 26 1955

RECEIVED OF Berline Barnes \$2.00

ADDRESS 200 E. 5th St

MALE ☐ FEMALE ☒ AGE 52 WHITE ☐ COLORED ☐

By Ford Vance Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.
POLL TAX FOR YEAR 1956
 LIBRARY PRECINCT

No. 4476

Hattiesburg, Miss. Jan 29 1956

RECEIVED OF Berline Barnes \$2.00

ADDRESS 200 E. 5th St

MALE ☐ FEMALE ☒ AGE 52 WHITE ☐ COLORED ☐

By Ford Vance Deputy

FORD VANCE
Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.

POLL TAX FOR YEAR 1936

LIBRARY PRECINCT

Nº 4475

Northburg, Miss. *Jan 21 1937*

RECEIVED OF *J. M. Barnes* \$2.00

ADDRESS *200 E. 5th St*

MALE ☒ FEMALE ☐ AGE ☐ WHITE ☐ COLORED ☒

Charles W. Vance FORD VANCE
Deputy Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.

POLL TAX FOR YEAR 1934

LIBRARY PRECINCT

Nº 4976

Northburg, Miss. *Jan 28 1935*

RECEIVED OF *J. M. Barnes* \$2.00

ADDRESS *200 - 5th St*

MALE ☒ FEMALE ☐ AGE ☐ WHITE ☐ COLORED ☒

W. A. Payne W. A. PAYNE, Sheriff and Tax Collector
Deputy

SHERIFF'S OFFICE, FORREST COUNTY, MISS.

POLL TAX FOR YEAR 1934

LIBRARY PRECINCT

Nº 4976

Northburg, Miss. *Jan 28 1935*

RECEIVED OF *J. M. Barnes* \$2.00

ADDRESS *200 - 5th St*

MALE ☒ FEMALE ☐ AGE ☐ WHITE ☐ COLORED ☒

W. A. Payne W. A. PAYNE, Sheriff and Tax Collector
Deputy

SHERIFF'S OFFICE, FORREST COUNTY, MISS.

POLL TAX FOR YEAR 1953

Nº 4489

RECEIVED OF _____

ADDRESS _____

MALE ☒ FEMALE ☐ AGE _____ WHITE ☐ COLORED ☐

By _____ Deputy Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.

POLL TAX FOR YEAR 1953

Nº 5386

RECEIVED OF _____

PRETINCT _____ ADDRESS _____

MALE ☒ FEMALE ☐ AGE _____ WHITE ☐ COLORED ☐

By _____ Deputy Sheriff and Tax Collector

W. A. PAYNE, Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.

POLL TAX FOR YEAR 1953

Nº 5386

RECEIVED OF _____

ADDRESS _____

MALE ☒ FEMALE ☐ AGE _____ WHITE ☐ COLORED ☐

By _____ Deputy Sheriff and Tax Collector

W. A. PAYNE, Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.
POLL TAX FOR YEAR 1953
 M. C. A. PRECINCT

No 5308

Hattiesburg, Miss. 2-1 19 53

RECEIVED OF Beulah B. Burrell \$2.00

ADDRESS 200 E. 5th St.

MALE ☐ FEMALE ☒ AGE WHITE ☐ COLORED ☒

By W. A. Payne Deputy
 W. A. PAYNE, Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.
POLL TAX FOR YEAR 1953
 M. C. A. PRECINCT

No 5549

Hattiesburg, Miss. Jan 30 19 53

RECEIVED OF J. M. Barker \$2.00

PRECINCT M. C. A. ADDRESS 715 New Orleans

MALE ☒ FEMALE ☐ AGE WHITE ☐ COLORED ☒

By W. A. Payne Deputy
 W. A. PAYNE, Sheriff and Tax Collector

SHERIFF'S OFFICE, FORREST COUNTY, MISS.
POLL TAX FOR YEAR 1953
 M. C. A. PRECINCT

No 5550

Hattiesburg, Miss. Jan 31 19 53

RECEIVED OF Mr. J. M. Barker \$2.00

PRECINCT M. C. A. ADDRESS 715 New Orleans

MALE ☐ FEMALE ☒ AGE WHITE ☐ COLORED ☒

By W. A. Payne Deputy
 W. A. PAYNE, Sheriff and Tax Collector

REVENUE OFFICE, FORREST COUNTY, MISS.
POLL TAX FOR YEAR 1952 NP 5385

RECEIVED ON C. M. Barnes Jan 14 1952

PRECINCT 715 ADDRESS New Orleans

MALE ☒ FEMALE ☐ AGE WHITE ☐ COLORED ☐

By W. A. Payne Deputy W. A. PAYNE, Sheriff and Tax Collector

Reverend BARNES. In Forrest County there are 7,400 colored persons 21 years and over. There are 25 Negroes registered. The reason for the small number of colored people is because most of them have had the same experience that I have had. I have not been permitted to register, and many of the persons with me have been denied the right to register. Most people say, "What's the use of trying, because we are not going to get fair treatment at the place of registration." In spite of this discouragement, I continue to urge them to make attempts to register. Some continue to make attempts to register and will continue to do so, but we need the Federal Government on this matter. The officials of Forrest County will continue to deny colored people the right to register and vote unless they are required to do so.

Mr. ROGERS. You say there are 25 Negroes that are registered. How did they get registered?

Reverend BARNES. Some of those, Mr. Chairman, are old residents that were registered before the new law. Some of them got in that way and some of them are being registered on the say-so of somebody else.

Now, I don't know if you would like for me to explain that, but I will do that.

Mr. ROGERS. Well, I have heard some people explain that if one fellow goes down and vouches and says, "John's a good boy and he can read and write," he can be registered.

Reverend BARNES. That is right. That is exactly what happens.

Mr. ROGERS. Then they will register you, but if you don't get somebody to do that, they won't register you.

Reverend BARNES. No, sir.

Mr. ROGERS. You have not been able to get anybody to do that?

Reverend BARNES. I have not asked anybody to do it. I feel like as a citizen and a taxpayer, I should go in and register like any other citizen.

Mr. ROGERS. Do they require you to have good character in Mississippi in order to vote, like they do in Alabama?

Reverend BARNES. Require what, Mr. Chairman?

Mr. ROGERS. Good character and good reputation.

Reverend BARNES. Yes, sir. They have a new form that you fill out in the new law that requires about 18 or 21 questions, but we have

never been permitted to fill one out because he never offered us one of them.

Mr. ROGERS. Nobody has ever let you have one to fill out?

Reverend BARNES. No, sir, they haven't, and we have asked on many occasions did they have that blank and they said "No."

Mr. PEET. You indicated that you made complaint to the Civil Rights Commission and the Civil Division of the Department of Justice.

Reverend BARNES. Yes, sir.

Mr. ROGERS. Your cases are pending now?

Reverend BARNES. Yes, sir.

Mr. ROGERS. I take it that Mrs. Barnes will verify what you said.

Mrs. BARNES. Yes.

Mr. ROGERS. Do you have any separate statement or do you just concur in what he has to say?

Mrs. BARNES. I concur in what he said because part of it was my statement.

Mr. ROGERS. And you went with him on these occasions to try to register yourself?

Mrs. BARNES. Yes, I did.

Mr. ROGERS. And you know what qualifications are necessary in Mississippi?

Mrs. BARNES. I think I know.

Mr. ROGERS. But you have never had a chance to fill out the registration form?

Mrs. BARNES. I have never been offered one.

Mr. ROGERS. Now let's hear from the other witness, Mr. Darden. Identify yourself and where you live.

**STATEMENT OF CHARLES R. DARDEN, PRESIDENT, MISSISSIPPI
STATE CONFERENCE OF NAACP BRANCHES, MERIDIAN, MISS.**

Mr. DARDEN. Mr. Chairman, gentlemen of the committee, I am C. R. Darden of Lauderdale County, in Meridian, Miss. I am president of the National Association for the Advancement of Colored People in the State of Mississippi, and I am also a member of the National Board of Directors of the NAACP in New York.

I come before you as a victim of threats of violence and intimidation. Crosses were burned in my yard and I have lived under threats ever since I have been associated with the NAACP.

Just before I left my home Wednesday, I had telephone threats against my life and against the members of my family.

I hold in my hand a picture of a bullet hole that partly shattered the window of Mr. Albert Jones' home in Meridian, Miss., on Wednesday, April 22, 1959. At 6 p.m. I was about to leave Meridian en route to Jackson to board a plane to come here to testify. I was informed by Mr. Jones that the person or persons fired on his home about 5:30 p.m. Mr. Jones is a citizen of Meridian and he has been active in the field of registration and voting. His mother, who is ill, and his wife were seated near the window and barely escaped being hit by shattering glass. This is the third time that this has happened to his home.

I have before me, also, a tabulation of the voters in Mississippi by congressional districts. It shows the number of Negroes over 21 years old in a county-by-county listing. It also shows the number of Negroes registered and the percent of Negroes in each county. There are 11 counties with no Negroes registered. In some counties where there are no Negroes registered, the percentage is 69 percent Negro. In one county where there are no Negroes registered, the Negro population is 70 percent.

Mr. ROGERS. May I interrupt you a minute? The statistics you have been talking about, have they been compiled on a separate form?

Mr. MITCHELL. We have taken these out of a book, an official publication, but we can furnish those if you wish us to.

Mr. ROGERS. If you can leave them with us, please.

Pardon me. Go ahead.

Mr. DARDEN. According to this record, there are 491,653 Negroes over 21 years of age. Only 22,308 were registered as of August 1, 1954. To date, these figures have been revised slightly upward.

I have also at hand a report that appeared in the Meridian Star on Sunday, April 19, 1959, of Meridian, Miss., which gives an estimate of 25,000 registered Negro voters in this State. This report also said that Mississippi has 27,746 Negroes who own farms within the State and 12,061 professional and technical workers. If we add these figures, we get 29,807. It is ironic that voting restrictions keep the number of registered Negro voters smaller than the number of farmers, professional, and technical workers. This reflects the deep-seated and widespread discrimination against Negroes. This is due to the Mississippi voting law which was enacted in 1956 for the sole purpose of retarding registration among Negroes. I have said on many occasions and I reiterate now that the vote law in Mississippi is the worst and most critical of any State in the Union.

The discrimination against Negro teachers in Mississippi is a serious indictment of our State education system. The very existence of any Nation depends on sound, basic, and functional education. The Negro teachers of Mississippi have been persecuted and robbed of their last vestige of freedom. These teachers live and work under a state of perpetual fear. They have been reduced to mere puppets by effective and unconstitutional laws enacted to purge and intimidate them. A number of loyal and dedicated teachers have been denied the opportunity to register and vote. What can be more un-American than to deny these, our well-trained and highly skilled teachers who have been educated in some of the best universities across the nation, the right to vote. For example, we submitted to the Department of Justice a complaint where teachers have been systematically required to remove their names as registered voters before they could secure contracts as classroom teachers. The fact the State of Mississippi after the May 17, 1954 decision, passed a law requiring Negroes to interpret various sections of the constitution of Mississippi and to write an essay on the duties and obligations of the citizens under the constitutional form of government makes it obvious that this was a move designed to block Negro registrants. The requirement to interpret any section of the Mississippi constitution to the satisfaction of the circuit clerk cannot be met if the clerk does not want to be satisfied. The same applies to the requirement to write out the duties and obligations

of a citizen under a constitutional form of government. These two items are used to prevent Negroes from qualifying for registration.

A case is pending on the Reverend W. B. Darby of Jefferson Davis County where approximately 1,200 Negroes were forced off the registration books. Some of these people had been voting since 1954. By an act of the legislature of Mississippi, a new regulation set up for registration and enacted into law in 1956 does not affect persons who were previously registered.

Mr. ROGERS. Counsel wants to ask some questions.

Mr. FOLEY. With regard to the Darby case, yesterday the decision of the three judge court of the southern district of Mississippi was put into the record. We were advised that the appeal had been abandoned. Now you say the case is pending?

Mr. DARDEN. The case has been turned over to the Civil Rights Commission.

Mr. FOLEY. Is there an appeal being taken from the decision of the United States District Court for the southern district of Mississippi?

Mr. DARDEN. As I understand, no appeal was made. The matter was turned over to the Civil Rights Commission.

Mr. ROGERS. Thank you. Proceed.

Mr. DARDEN. Yet in the case of Jefferson Davis County, the county called for a re-registration. Persons who had been previously registered and had voted were required to take the new examination. Approximately 65 out of 1,300 colored voters were permitted to register under the new law.

Now we have the case in Hattiesburg, Miss., of the Reverend Wendell P. Taylor, who formerly lived in the city of Meridian. He was registered there and voted there 6 years that he pastored there in that city but when he moved to Forrest County, Hattiesburg, he met with the same opposition that was expressed by my co-workers here, the Reverend and Mrs. Barnes. He was denied the right to register in Forrest County, Hattiesburg, Miss.

Now Reverend Taylor is a college graduate, holding a B.S. and a M.A. degree from Columbia University in New York City. That has also been filed with the Justice Department.

Mr. ROGERS. How long has he lived in Forrest County?

Mr. DARDEN. He has lived in Forrest County now for more than 2 years.

Mr. ROGERS. Proceed.

Mr. DARDEN. Now, Mr. Chairman, I also have for you an observation, a clipping from the State Times of Jackson, Miss., in 1957, and this was a statement made by a Governor, Mr. J. P. Coleman—the Honorable J. P. Coleman:

Mississippi can and will legally sidestep integration of her schools, even as this State has done at the ballot box, Gov. J. P. Coleman said here late Thursday. Governor Coleman declared that any State in the Union may avoid integration by taking full advantage of the legal opportunities available to it.

He said that the State of Mississippi has a perfect example in the voter laws which have remained particularly impregnable to the would-be Negro balloter since 1890.

He said that there has been no appreciable increase in the Negro vote in this State despite an all-out effort by the NAACP because the State constitution makes no provision on voting or elections that refers in any way to race.

Coleman said further that he does not favor Negroes voting in this State and that he hopes that there will never be a strong Republican Party in Mississippi.

We also hold here a form of intimidation that was brought against our Negroes in the State. Now the Congressman, Mr. Bruce Alger of Texas, made the statement that money should not be spent on civil rights legislation; yet in the State of Mississippi \$250,000 was appropriated from the taxpayer's budget in order to track down people who are seeking justice through civil rights. We also offer this for the record.

Mr. ROGERS. You mean the legislature of Mississippi appropriated \$250,000 to trace down who?

Mr. DARDEN. That is correct. "State to Hire Secret Racial Investigators."

Mr. ROGERS. Racial investigators?

Mr. DARDEN. Yes, sir.

PROBES TO AID IN FIGHT TO PRESERVE SEGREGATION; GROUP MAY INCLUDE NEGRO

The State Sovereignty Commission Tuesday voted to employ secret investigators as "an official arm of State government" who would "serve as the eyes and the ears" in the State's fight against racial integration.

Gov. J. P. Coleman, chairman of the 12-member group created to assure continued racial segregation, told the commission that plans approved by it today "will bring this commission into its full effect and fruition."

To carry out this work the commission elected a full-time executive director, a director of publicity, and "such investigators as the chairman may deem necessary" to prepare the State's course of action against court suits to end segregation.

We are not a—

This is a newspaper clipping and it is a little hard to read here.

Mr. MITCHELL. Mr. Chairman, with your permission, I would like to submit this for the record. It is a newspaper clipping and I would just like to say that this commission was set up in 1957. It is still active, but one of the interesting things to me was when they gave their official report the first thing they had their staff do was to take a trip out to California to visit Hollywood at the taxpayer's expense in Mississippi.

Now it has never been quite clear to me why these Mississippi investigators who were tracking down racial segregation in Mississippi had to go to Hollywood at State expense, but that was officially reported as part of the activity of the new investigators.

I might say they also attempted to hire colored people who will sit in on the meetings of these people and report back to the State officers any kind of conversation or who is present. I have been down there in Mississippi where they have had their representatives out—that is, representatives of the commission—taking down the license numbers of cars of the people who were attending the meetings, obviously for the purpose of reporting back to the commission who was present.

Mr. ROGERS. Thank you. Proceed.

Mr. DARDEN. The Mississippi Negro can expect no justice, freedom, or equality from the State and local officials in Mississippi. Therefore, we must look to the Congress of the United States to enact the necessary civil rights legislation to guarantee the Negro equal protection under the law, as well as equal protection of the law.

There is a hard core of resistance in the State of Mississippi to the May 17, 1954, decision. There are no plans being made to comply with the Court order to desegregate schools and other facilities of

public accommodation. Most of the planning is aimed to accomplish defiance of the law.

The capricious nature of segregation is demonstrated in railway stations. For example, in Meridian, my hometown, signs direct colored intrastate passengers to a segregated waiting room at the railway station. No sign is posted in the main waiting room. This means that many colored people are steered to the segregated waiting room whether they are interstate or intrastate passengers. It is a potential source of trouble because there are always policemen or volunteers who undertake to enforce segregation simply because they do not know what the word "intrastate" means. Some insist that all colored passengers should be forced to use separate waiting rooms.

In Jackson, Miss., colored and white passengers are forced to use separate waiting rooms regardless of whether they are interstate or intrastate passengers. A policeman is always on duty at all times with instructions to arrest anyone who violates this regulation. At traintime, colored passengers are held back by a chain until white passengers board the train. When the white passengers are all on, the colored are then permitted to board the train. The police department has posted signs on the street outside the railroad station designating white and colored entrances.

At the Jackson Airport, there are two drinking fountains. One is for colored and one for white. Restrooms and the restaurants are also segregated. Restrooms were not segregated until the airport was remodeled about 2 years ago with Federal assistance.

Mr. ROGERS. Just a moment. Counsel has a question.

Mr. PEET. Mr. Darden, do you know whether complaints to the Interstate Commerce Commission have been made of the actions which you complain of here?

Mr. DARDEN. At the railway station?

Mr. PEET. Well, any of them; all of them.

Mr. MITCHELL. I can answer that. When Mr. Warren Olney was the Assistant Attorney General, we prepared a general memorandum of the Southwide conditions, which included these illustrations. That was turned over to the Department of Justice. It was our understanding that thereafter the Department of Justice was to take this matter up, but nothing has ever come of it and we have not been able to get any action from the Justice Department on these particular problems; that is, they do not actively work to eliminate racial segregation in the waiting rooms and airports and things of that sort.

Mr. PEET. Who were these matters to be taken up with the Assistant Attorney General of the Justice Department or with the ICC and CAB?

Mr. MITCHELL. Well, the Assistant Attorney General, as I understand it, intended to use that material in the conferences with the local U.S. attorney. They, in turn, were to get in touch with the carriers and the operators of the various establishments. They were to tell them that this is illegal and it was expected that by persuasion the local attorneys would be able to accomplish desegregation but, first, I don't know whether they ever did it, and, second, I know that if they ever said anything, it hasn't been effective because the condition still exists.

Mr. ROGERS. Proceed, Mr. Darden.

Mr. DARDEN. To cite some cases, Mr. Evers, who is the field secretary in the State of Mississippi for the NAACP boarded a bus in Meridian, Miss. He took a seat just behind the driver and the driver cautioned him that this was the State of Mississippi, you will have to ride in the rear.

Mr. Evers contended he was comfortably seated and it would be all right with him to ride where he was. The bus was held up for more than an hour and 20 minutes. It so happened that I was at that time a witness because I parked my car between the police station and the bus station at 1:30 a.m., while I waited to see if he would be permitted to proceed to Jackson, Miss.

Immediately after I left, after 2 a.m.—I stayed there approximately an hour—Mr. Evers was taken off the bus by the police force at Meridian. He was carried over to the police station for questioning. He questioned the police as to whether he was under arrest or not. They said no, you are not under arrest. Yet several policemen took him over and questioned him, which we conclude was an arrest. They told him that he knew that he was in the State of Mississippi, and whether he was an intrastate or interstate passenger, that he was not supposed to ride up front, and they told him to go and get back on the bus and he knew where he was supposed to take a seat.

He boarded the bus the second time and he sat this time on the front seat, right across from the busdriver because somebody had taken the seat behind the busdriver. The busdriver closed the door and pulled away. After the bus proceeded just about four blocks from the station, a cab started blinking his lights for the bus to stop. So the cabdriver told the busdriver he had another passenger for him. The busdriver opened the door; the cabdriver got on and said, "If you can't get this so and so to move, I can." So he beat him in the face with his fist.

Now Mr. Evers offered no resistance, but he did sit there and the bus proceeded on to Jackson.

Of course after he was a short distance out of Meridian and the busdriver stopped and had the people on the bus to fill out cards saying exactly what happened because he wanted his job. This case was followed up. Mr. Evers has submitted to the police force the cabdriver, the number of the cab, and what have you, yet no one has been arrested.

Shortly after the incident of Mr. Evers, my sons were also riding a Trailway bus en route from Meridian to Jackson and—I will make this story short. I won't go too much into detail. Three of my sons were seated near the center of the bus. When the bus got to Newton, Miss., there is always a policeman on hand around these stations and the busdriver then said "You Negroes move to the rear of the bus. You know where you belong."

One of my boys became frightened and of course he got up and moved to the rear of the bus. Two of these sons felt that they had a right to ride that bus as first-class citizens and refused to move. The busdriver then took my older son by the arm and snatched him out of his seat. Of course he sat back down and he still wasn't more than——

Mr. FOLEY. How old are your sons?

Mr. DARDEN. The oldest one is 16. Of course, at the time he was 15. The second one was 14 at the time and, of course, the baby boy was 8. So the oldest son sat back down, but the baby boy, who was 8, he moved to the rear of the bus. That was also reported but today the condition still persists, especially in these small towns, that all Negroes move to the rear of the bus. Only the brave can afford to ride up front, but we would like to see the day soon, to be frank with you about it, when not only the brave but the meek and humble can also ride as first-class citizens.

No efforts are being made on the part of county and State officials to desegregate our public school system. Various forms of intimidation are being heaped upon Negro teachers in that they are required to sign a notarized affidavit referring to all of the organizations to which they belong or have contributed to in the 5 years. I have been reliably informed that the first organization listed on the questionnaire is: Are you a member of the NAACP. Some teachers who admitted that they were members of the organization were fired. I have been advised by teachers that they have been cautioned against referring to the Constitution of the United States in the classrooms. In some schools in the larger cities, and this is mainly in my hometown, the children engaged in activities for the most part have very little classroom instructions. This is done to prevent the Negro children from acquiring an education that will keep them up with the times in which they live. Some teachers have left the State of Mississippi because they were not permitted to refer to the Constitution of the United States and were not permitted to register and vote. They could not teach citizenship as they themselves could not obtain first-class citizenship.

We, the National Association for the Advancement of Colored People, requested free time on the WLBT television station of Jackson to express our side of the question on segregation after the Little Rock crisis was discussed on a so-called public service program. Appearing on this program were Mississippi's Governor, J. P. Coleman, Senator James O. Eastland, Congressman John Bell Williams and Dick Snyder. This program was presented to stress the need to maintain segregation and to say what the Negro wants and does not want. The program included only persons of the Caucasian race and expressed only the segregationists' point of view. We sought time and we were denied free time. We then offered to pay for the time to express our side of the question. The WLBT television station refused to sell the NAACP any time to discuss or present the Negroes' point of view.

With the State officials, local officials and even the television stations against civil rights, it is imperative that we get help from Washington. That is why we ask and we urge you to approve the Cellar civil rights bill.

Thank you.

Mr. ROGERS. Thank you very much.

The committee will be in recess until April 29, 1959, at 10 a.m.

(Whereupon, at 12:10 p.m., the subcommittee recessed, to reconvene at 10 a.m., Wednesday, April 29, 1959.)

CIVIL RIGHTS

WEDNESDAY, APRIL 29, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:05 a.m., in room 346, Old House Office Building, Hon. Emanuel Celler presiding.

Present: Representatives Celler (chairman), McCulloch, and Rogers.

Also present: Representative Edwin E. Willis, Third District of Louisiana; William R. Foley, general counsel of the subcommittee, and Richard C. Peet, associate counsel.

The CHAIRMAN. Let the committee come to order.

We have within our presence the distinguished gentleman from Louisiana.

We also have the distinguished district attorney, from the 25th judicial district of Louisiana, Hon. Leander H. Perez, and also our very distinguished Member and colleague from South Carolina, Representative Robert W. Hemphill.

Brother Hemphill, we will be very glad to hear from you.

STATEMENT OF HON. ROBERT W. HEMPHILL, REPRESENTATIVE FROM FIFTH DISTRICT, SOUTH CAROLINA

Mr. HEMPHILL. Mr. Chairman and members of the subcommittee, I have handed up a prepared statement. Please feel free to interrupt me at any time.

I appear today to oppose any and all civil rights legislation. I appreciate your allowing me to testify this morning. While I am sure that the members of this subcommittee have definite ideas on civil rights legislation, which are the exact opposite of my own beliefs, I do appreciate your giving me a hearing and listening to me. I deeply appreciate the opportunity of appearing before you today.

Two years ago, at the onset of the battle which culminated in the civil rights bill of 1957, you very courteously gave me a chance to testify before a subcommittee, composed of some of the men who are on this subcommittee today. You were courteous to me at that time, and I deeply appreciate your courtesy, although I have disparaged the waste of time involved in the passage of that legislation, the bitternesses it inflamed, and the disheartening effect it had upon the southern people.

Has it not occurred to you that no Member of the congressional delegations of Virginia, North Carolina, South Carolina, Georgia,

Florida, Alabama, Mississippi, Louisiana, Arkansas, or Texas have appeared before your committee asking for any civil rights legislation? Have you thought of the fact that we are the representatives of the people, and we have been elected as representatives of the people, and we speak for our people? I do not recall one public officeholder, from the States most affected, who has spoken out in favor of civil rights legislation. You have worked here in Congress along with these men who represent the people of these States in the House and in the Senate. They have tried to tell you and impress upon you the fact that civil rights legislation will not improve race relations in their States. I will tell you now that it will not improve race relations in your own States, and all it does is keep the pot boiling, stir up feeling, give vent or opportunity to people to express hatred, or feelings which might be lived down.

I could tell you about the race relations in my own State. My own Governor has come here to tell you that, and I know you were impressed by Governor Hollings and those fine men who came up with him when you so kindly gave an audience on April 14. I want to thank you now for the manner in which you listened to his testimony. Some months ago when I was talking to him in his office in Columbia, about coming up here and appearing before the subcommittee, he asked if there was any use. He asked me if you had prejudged the cause. I hope you have not. If you have, even holding hearings is the ultimate in hypocrisy.

The CHAIRMAN. May I ask a question?

Mr. HEMPHILL. Certainly, sir.

The CHAIRMAN. What might give you a reason for the Subcommittee on Judiciary holding some hearings? Here we have a situation where the Supreme Court ruled—now, I am not going to enter the question whether you agree or disagree with the Supreme Court decision—the Supreme Court ruled that the principle or doctrine of separate but equal as applied to the school system is not in accordance with the provision of the Constitution, namely, the 14th amendment. Now, that being the case, what shall I ask you—I ask you more or less for advice, kindly advice—what shall the Judiciary Committee do under circumstances of that sort?

Mr. HEMPHILL. Well, as—

The CHAIRMAN. What shall we do, do something, or do nothing, or what?

Mr. HEMPHILL. Well, I think the proof of the pudding, sir, is in the eating. The Judiciary Committee evidently felt, and I will presume its sincerity, that it was necessary to implement that decision with some sort of legislation. At least certain people felt so. As a result of that, your committee started hearings in February, my recollection is, of 1957. I remember I appeared, I think, on February 4. At that time I told you that the civil rights legislation which you proposed or which was proposed before this committee would not do what you expect it to do. It would cause more harm than good.

As I point out in my statement here, we spent months on that legislation wasting time when we had other problems in this Nation we could have attended. We spent months in the House—I mean weeks in the House—arguing it. A Civil Rights Commission was set up, and when I read in the daily papers today and see how much

strife there is, I am just wondering why we ever started it, because I am satisfied that some of the difficulties which presently are upon us in the form of differences between the races were inspired by the fact that some thought because of civil rights legislation they could get away with some things or demand some things, and others thought because of civil rights legislation and the injustice of it, it was necessary to take the matter in their own hands. I have been distressed, sir, at the bombings and the violence, and I am going to lay part of it right here because I was convinced at that time and I am convinced today that the longer you meddle with this thing in this particular time, you are going to keep stirring it up, and my proposal to you today, when I finish this statement, is that you use your own judgment and your power to give us a moratorium, and I am going to point out to you the reasons, if I may. Perhaps my reasons are fallacious, but the facts are not fallacious, and the facts are what I am going to point out to you because I feel this way, Mr. Chairman—you have a terrific responsibility. Now, you not only have a responsibility to whatever your ideas and beliefs are, you are chairman of one of the great committees of a great Congress, and I respect your power and your judgment, and you have the power, if you want to, as chairman of that committee, to recognize the evils which can come from civil rights legislation, and to say to these people who are asking that you give us a chance, give us a chance to see if we can't work things out.

The CHAIRMAN. Then I understand your answer to it is that there should be a delay or moratorium?

Mr. HEMPHILL. Yes, sir.

The CHAIRMAN. Now, permit me to say this: I would be perfectly willing to grant a moratorium if I felt that the delay or the moratorium would be constructive. Now, the decision was adopted in 1954. We are now in 1959, and 3 years, probably or 4½ years have gone by already. If I could get assurances that the delay wouldn't be merely for delay's sake and that the delay would be for the purpose of working out something that would be constructive, I certainly would not object to delay, but thus far I wonder whether or not we have had evidence of a desire to bring about some sort of solution during a period of moratorium. I don't know whether that has been made manifest. I doubt it, but I would be very glad to hear your statement, and forgive my intrusion.

Mr. HEMPHILL. I am delighted to answer that, sir.

Mr. McCULLOCH. I would like to ask one question. Do I properly construe your statement to mean that it covers everything in the field of civil rights; that you think there should be a moratorium on the implementation of the right of proper use of the elective franchise, or are you speaking only of the school integration?

Mr. HEMPHILL. I am speaking of interference in the franchise at this time and school integration and the whole picture.

Mr. McCULLOCH. You are even objecting to any implementation on the part of the Federal Government insuring the full and complete use of the elective franchise in accordance with the Constitution of the United States?

Mr. HEMPHILL. I don't think the implementation is necessary, because I will tell the distinguished gentleman from Ohio and the distinguished minority leader on the subcommittee, the longer you med-

die with this picture from a purely political standpoint, which is what is being done today, you are stirring up the situation, and there are many people, as I point out in my statement, there are many people of both races in my part of the country and in your part of the country who have worked for years to improve race relations and to give the people a right to vote. I pointed out in my statement in my State of South Carolina every man enjoys a right of franchise. As a matter of fact, he can belong to the Democratic Party; there is no poll tax or anything else but, if you keep on saying to people: "You are being trampled upon and your rights are being trampled upon," instead of saying to people, "now, listen, it is American to try to work out your problems, see if you can't work them out." We have tried a Civil Rights Commission, and it didn't work, but maybe some of you people think it did work. We tried a Civil Rights Commission, and it didn't do any good. The members are resigning. Down in South Carolina you can't even get a man of decency or consequence to serve on the Commission and that, of itself, is significant.

What you are doing is, you are just stirring up a fire which could die out, and let our people make the progress they have been making, and that is what we want to do, and that is what we have been trying to do, but you keep on interfering and some of these politically inspired bills come up and they are badgered back and forth, and then we pick up the paper and read some horrible catastrophe and somebody makes a comment about that, and then the next thing you know we have another bitter, inflammatory fight.

Mr. McCULLOCH. Yes, sir.

Mr. Chairman, I would just like to make this statement. I would like to join in the statement of the chairman saying that we would be glad to countenance every proper delay for the solution of one of the troublesome problems of our time. I, however, very strongly feel that we should take every proper step to implement the right of the elective franchise in America, and to me there has been no satisfactory explanation of why people in certain sections of the United States of a certain single class in some precincts and in some wards, and even in some counties, cast not a single vote in the selection of the officials of a representative government, and I am awaiting with interest the comment and the explanation of that phenomena.

Mr. HEMPHILL. Well, I might say to the distinguished gentleman that I hold the ballot box as sacred as he does, and since I live in a section where race is not an issue in voting, I certainly can join in the gentleman's philosophy that everybody ought to be entitled to vote. But I think that regardless of what laws you pass there are going to be some abuses. Every law on the statute books is violated at some time during the day or night and you can't just pick out single abuses to try to justify some legislation which is not necessary.

Now, I might also point this out, that even though you might legislate all you want to, and you might put on the statute books as many laws as you want to, the problem that—some people can't see the forest for the trees—the problem here is race relations, and if you give these people a chance, these intelligent people I will tell you they will work things out, and we have been working ours out, and we are proud of our progress, but as you go along and stir this thing up and

accuse people who are innocent and trying, finally you put a stigma on anybody who tries to work something out, and you have done it to such an extent that in my own State you can't get anybody on the Civil Rights Commission, and that is something to think about. When people say, well, no, sir; we won't be associated with something that Congress has said is a creature of the Congress, the Commission, it is something to think about.

The CHAIRMAN. I would like to ask you, Mr. Hemphill, whether or not there has been made manifest an intention of good faith to solve these problems and whether or not a moratorium would help in solution, and in that connection I draw your attention to certain legislation passed by your own State of South Carolina.

In November 1952 South Carolina voters approved the constitutional amendment repealing that section of the State's basic law requiring the general assembly to provide for "a liberal system of free public schools for all children between the ages of 6 and 21 years." The amendment was given final legislative endorsement in March 1954. In 1955 the legislature adopted six proposals of the South Carolina School Committee, among them the following: "1. Repeal of compulsory school attendance laws," and so forth. I need not read them all.

Well, now, if there was such an intention that you had in mind, or is such an intention, why was it necessary to pass these kinds of statutes?

Mr. HEMPHILL. Mr. Chairman, the facts speak for themselves. In South Carolina, since 1952 and to today, every person of school age that wants an education gets an education, and an equal education. So far it has been a separate, and I hope it continues to be separate, but the facts speak for themselves, and the fact that we have good race relations. We have good education, we employ in the school systems of South Carolina Negro educators and Negro teachers who do a good job, and we have by virtue of the fact that we have worked on it, despite all of the inflammatory propaganda, we are working on it, and we have built the best schools for the Negroes in South Carolina in this Nation, and the white schools are hardly on a par with them.

The CHAIRMAN. They were separate and segregated schools?

Mr. HEMPHILL. Yes, sir; they are.

The CHAIRMAN. Now, I mention 1952. Of course, I can go on. I can speak of the following: In April 1955 your general assembly wrote into the State's permanent law an amendment to the General Appropriations Act for 1955 and 1956 the following provision:

Appropriations of State aid for teachers' salaries and all other school district, county, and State appropriations for the operation of the public school system shall cease and become inoperative for any school from which and for any school to which any pupil may transfer pursuant to or in consequence of an order of any court for the time that the pupil shall attend the school other than the school to which he was assigned before the issuance of such court order.

and other restrictive provisions have been passed. So that after the 1954 decision you passed these statutes, I take it, to somewhat circumvent the decision. What would be the reason otherwise for those kinds of statutes?

Mr. HEMPHILL. The reason, sir, was to carry out the wishes of the people of South Carolina, white and black, to have separate schools.

The CHAIRMAN. Then the people of South Carolina wish apparently to get around and circumvent the Supreme Court decision.

Mr. HEMPHILL. The people of South Carolina desired good race relations, and the people of South Carolina desire segregated schools, and that legislation, I assume—I was not a member of the assembly at that time—but my information is that that legislation was passed to carry out the intent of separation of schools and to carry out the intent of the people that we would have good race relations, and the result has been we have got better schools and better race relations.

The CHAIRMAN. Well, it still doesn't comply with the Supreme Court's decision, does it?

Mr. HEMPHILL. Well, is the Supreme Court after compliance or good race relations?

The CHAIRMAN. Well, the Supreme Court, I think, declared that the separate but equal doctrine as applicable to public schools was illegal. Now, these statutes apparently insist upon the continuation, the implementation of the separate-but-equal doctrine.

Mr. HEMPHILL. I think they were supported. I don't know whether they insisted upon it or not, but I know that no State official that I know of—as a matter of fact, from the grassroots of any of the people, Negro or white, there have never been any demands for integrated schools in South Carolina, and what we have been trying to tell the Congress and we tried to tell the Supreme Court when we sent our counsel up there, is that if you will just quit meddling in the picture, we are working out our problems satisfactory to everybody, and we have worked them out. We have worked them out, and I am, proud of the fact.

The CHAIRMAN. Wasn't there a South Carolina case involved in the desegregation Brown decision?

Mr. HEMPHILL. That is correct. That was the Clarendon County case, and since that time there has neither been integration nor any effort at integration.

I just wish that you people who don't know my country and the Supreme Court, who, in my opinion, departed from *Stare Decisis*, could come down and see what we have done, and then realize if you are going to depend on some philosophy, a Swedish philosopher, to determine what the Court will say, if you are going to take public opinion to determine what the Court is going to say, I wish you would just come down there and see what we have done, and then you would realize that this political philosophy of trying to do something in a period of a few years that has not been done in a couple of centuries, is not only wrong but it just doesn't make sense.

Mr. WILLIS. Would the chairman permit the gentleman to yield?

The CHAIRMAN. Certainly.

Mr. WILLIS. The chairman posed, as I caught it, three questions that we must face. No. 1, the first question was the Supreme Court having ruled as it did, what shall be done? The decision, I think, itself provided that the matter being inflammatory as it is, should be for some period of time left to implementation by the Federal courts—Now, that might be an answer to that—with deliberate speed. So the decision itself contemplates a period of delay.

The next question had to do with the right to vote, and that particularly is the reason why I ask to make this statement. Let me say very firmly and definitely that I am for every person in the country to have the right to vote. In my parish, in my hometown, in my district

composed of parishes—I won't go beyond that—if you have any feeling here and don't want to take me at my word and ask me where in that area the right to vote has not been freely exercised, then you can repudiate what I am saying. I honestly believe that that is not the issue in my area. People who are qualified to vote are voting, and I maintain have a right to vote, irrespective of race, religion, or anything else.

Now, in connection with the third problem of segregation, let me tell you that my town of St. Martinville is the second oldest town in the State. I don't want to go into religion, but it is a statistical fact that my area is predominantly Catholic. Beginning in 1755 until 15 years ago we had an integrated Catholic church. Whites and blacks attended the same church, to be sure in separate pews. The leading colored people in my town importuned me, a lawyer and as their friend, to help them to institute a separate Catholic church, a separate congregation. We did. We paid for it. We participated in the celebration, and the Catholic bishop was there. We gave those people what they really wanted. That was done. Now you ask me to advocate that they go contrary to what they wanted just 15 years ago when they opposed integration. I don't know. Those are very serious problems.

But on the right to vote, if you have any figure yourself to show that people in my district, colored people in my district, are not exercising that right, then please give me those statistics. I don't want to go beyond my district because I don't know the facts. If you say one way, I don't know whether you are right or wrong, but I do say that progress in voting and that progress in race relations has gone on in my district.

The CHAIRMAN. You may proceed, Mr. Hemphill.

Mr. HEMPHILL. I will continue with my statement.

Mr. Chairman, I might make one more remark here. You were talking a minute ago about the Supreme Court of the United States. The biggest men I have ever known are the men who said they made a mistake. If a man tells me he has made a mistake, I think he is a pretty big man. We have a Court sitting over here, which by its decision of May 1, or whenever it was, 1954, has caused dissension in this land—there is no question about it—dissension in this land has been inflamed by that decision. Now, if that Court had the judgment or the commonsense to say, "Maybe we made a mistake. Let's reexamine and let's give these people a moratorium to see if they can work it out," it would be a big thing, and the reason we are talking like that is because, as we see it, the conditions today have not improved, but have depreciated since May of 1954, and we are a people who don't look to philosophies, we look to the facts of life, and that is the reason I made the statement I did about the moratorium.

We understand the political motives. We deplore them. We understand other motives which are not political, and we deplore them, but if we had a chance to work these things out, I don't think this committee would be concerned with this type of legislation, but could attend to some other things.

I am going to skip part of my statement. It is filed with you. There is a gentleman behind me, and I hope I have not trespassed on his time. I will go on to page 3.

You cannot legislate away racial differences. It has never been done, and will not be done by any bill you bring out of this subcommittee.

You cannot legislate away social differences. People are going to associate, socially, with whom they wish, regardless of any legislation that you pass here.

You cannot legislate equality. One man is born with a brilliant mind, another a moron. One lady is born to be Miss America, and another born to scrub floors.

If prejudice exists, and there are places where it does, you do not cure any prejudice by this legislation; you give vent to it and cause for its continuance.

Mr. MEADER. Mr. Chairman, may I interrupt the witness there? I notice on the top of page 3 you omitted a paragraph in which, as I read it, you favored the election of a Democratic President in 1961 or 1960.

Mr. HEMPHILL. Yes, sir; I do, sir.

Mr. MEADER. Did you intend to delete that from your statement?

Mr. HEMPHILL. No, sir; I filed it with the committee, but I would be glad to tell you why.

Mr. MEADER. I was going to say I thought it should be deleted as being irrelevant to the purposes of this hearing.

Mr. HEMPHILL. No, sir; I thought that perhaps I would get at more of the meat of the thing.

At one of the hearings I attended, I understood some member of the committee to state that the Supreme Court could change its mind. I believe the question arose because of the criticism of the witness at the departure from the principle of *stare decisis*, which, of course, means adherence to legal precedent. If this be true, how well could this committee, with its great talent, use its time and its talent and the people's money, to do something about a court that needs the correction of men such as exist on this subcommittee?

Social status has to be earned. Equality has to be earned also. Until I came to the Congress, I did not consider myself equal to the Members of Congress, either in experience or legislative potential. Once my people elevated me to this office, my vote became just as important as yours.

I wonder if this committee is acquainted with the Southern Regional Education Board, which is an administrative board for about 16 Southern States. When a Negro student graduates from high school in any of the States having a member on the board, he or she can apply to any State supported Negro college in his or her State for admission for a college education. If he or she applies for a course such as law, medicine, dentistry, veterinarian, druggist, or nursing, the application is processed by this board. The student is interviewed and the college picked, in order that the student may obtain his education and degree. The board pays a certain amount per year toward his tuition. I have known some of the men and women who have graduated professionally from some of these schools and who have taken their place in their communities.

I would like to file some of my statement, but to skip over, Mr. Chairman. I have taken a lot of your time.

The CHAIRMAN. You want your whole statement placed in the record?

Mr. HEMPHILL. Yes, sir.

The CHAIRMAN. That will be done.

Mr. HEMPHILL. In South Carolina the Negro has always received a fair trial in the courts. In fact, those of us who, from time to time, have been charged with the responsibility of justice have leaned over backward to give extra leniency and mercy to those so unfortunate as to be uneducated.

In South Carolina a Negro has unhampered electoral privileges.

In South Carolina a Negro has equal economic opportunities.

In South Carolina Negro educators participate proudly and efficiently in educating their own race. Has any Negro educator come before you to complain?

In South Carolina Negro and white speak to each other courteously.

From South Carolina has come no complaint to the Civil Rights Commission—certainly no complaint of sincerity and consequence.

In South Carolina Negroes sit on petit and grand juries. As a witness in court they are believed or disbelieved on the truth or veracity of their statement, and not judged on their race.

In South Carolina a Negro in a civil damage suit receives justice, and, where merited, just compensation.

In South Carolina Negroes participate in every community drive, such as Red Cross, Community Chest, and the like.

In South Carolina we have an extension service, for Negro farmers—a great, appreciated, and beneficial program.

I could not begin to name all of the thousand progresses the Negro has made—nor prophesy the thousands he will make in the future—all with the help and cooperation of white and other races.

And all of his progress has been made without civil rights legislation—all without the help or influence of a Civil Rights Commission—all without any demagogery on the part of any political party.

Will you turn back the wheel of progress?

I cite you South Carolina, and I am proud of the progress we have made.

We can continue.

If we can continue, others can, too, and will.

We do not need your censure. We now need your help. We need the statesmanship of this subcommittee and its members to declare a moratorium on civil rights legislation to say to the public and the Nation at large, "Let's see what progress we can make." We are not asking for any delay for delay sake. We are asking for delay and moratorium for the sake of race relations and for the sake of the good thereto.

You have the opportunity, I feel, Mr. Chairman and members of this subcommittee, for good, and to do a great thing for this Nation at this time. We respectfully ask that you do it.

I certainly thank you for letting me come here and trespass on your time.

The CHAIRMAN. Mr. Hemphill, I just wanted to add this one other item in reference to that moratorium and to show you how hard and difficult it is for us to come to a conclusion of that sort because of recent events in some of the communities in the South. I refer to the

recent lynching, which leaves a very bitter taste in the mouth of those who are trying to do the right thing here up in Congress, and you will agree that that lynching is most deplorable. I am quite sure that the good people of Mississippi, in which State that lynching occurred, are certainly wounded in their pride and want to do everything and all and sundry to bring the malfactors to, but nonetheless there you had a brutal lynching which causes emotions to rise all over the country, and it makes our job very difficult here. You agree on that, I am quite sure.

Now, another case has been brought to my attention, which to my mind has aggravated the situation. It is the case involving one Asbury Howard, of Bessemer, a steel town near Birmingham, Ala. As I understand it, this man Howard, a deacon or a pastor of the church, went to a painter of the town and wanted the latter to paint a cartoon which was to be distributed. It was not yet distributed at the time of the arrest of this man Howard. It depicts a Negro who prays with handcuffs on his wrists and prays to the Lord that all Americans shall have the same rights everywhere, and there is a legend: "You can't enter here. You can't ride here. You can't work here. You can't play here. You can't stay here. You can't drink here," and "You can't work here."

The so-called cartoon was not distributed, but apparently the authorities at Bessemer heard about it and seized the cartoon, arrested this man, Howard, and the painter who depicted the scene, on the score that there was a violation of some ordinance concerning obscenity in publications that would bring moral turpitude, or in the last analysis create public disorder. Mind you, the cartoon had not been distributed, and there was a trial and the man was sentenced to serve 180 days in jail and pay a fine of \$105, and the judge exacted a bond of \$200 pending appeal. I am reading now from the magazine "The Reporter."

As he left the courtroom, namely, as Howard left the courtroom, after posting the bond, he found some 40 white men lined up along the walls of the lobby and the stairway leading down to the main floor of the city hall. Here is how he described what happened next:

As I was about to take the last step down, I was truck a terrific blow from the rear which landed on the right side of my head. It knocked me off my feet. The crowd of men around the wall rushed towards me. They lashed out with their feet in a vicious effort to stomp and mutilate my face, head and body. I struggled the best I knew how upon my back, with my back upon the floor. I finally managed to reach a corner. In the meantime my son, Asbury, Jr., was struggling down the stairway to my rescue. The mob turned on him. My son put up a furious battle against unequal odds. After he refused to give up, but kept on fighting back, they gave groans and began to scatter. There were about 15 or more policemen in and around the courtroom. The only arrests they were able to make was that of my son. All members of the mob were allowed to escape unmolested. My son was charged with disorderly conduct and resisting arrest. He was placed under \$600 bond. After escaping the mob I needed medical care. I was badly shaken up, bruised and bleeding badly. The blow I received on my head opened up a very bad wound that took 10 stitches to close. I was very weak because of the amount of blood I lost. As I waited outside the city hall for an ambulance, I was ordered to move along by police officer. He told me, "Get away from here, or else I'll carry you upstairs and lock you up."

Two of my friends helped me to walk a block or more to a car, and I was taken to the Bessemer General Hospital and was given medical care that I needed. Asbury Howard, Jr., was later sentenced to 1 year's hard labor for his efforts to defend his father at the Bessemer City Hall.

Now, the recital of that case indicates the harshness of some of the events that are happening. I hope that is not typical, but it stands up like a sore thumb to indicate the bitterness and the horrendous events that are happening in some of these areas, all of which, as I said before, makes our task so much harder, so much more difficult. So that when we are asked for a moratorium, we are confronted with these facts.

Mr. HEMPHILL. Mr. Chairman, I might say I deplore any lynching, certainly any bombing or any violence. That certainly is not the answer to any of our problems, but I might say that if I had been mindful of it, I could have probably pointed out, because I have some newspaper clippings sent to me, some stories of violence similar, if not equal or superior to those mentioned, but I am not going to undignify myself here by accusing some other city or State. We have all got problems. We all have problems, and I hate to hear about them just as much as you do. But I don't think civil rights legislation at this time is going to prevent, if your object is to prevent the lynching or if your object is to prevent the Asbury Howard situation, whether what you have read be the exact truth of it or not—it is a newspaper account apparently—if that be your object, civil rights legislation is not going to cure it.

I thought perhaps the object of civil rights legislation—I had hoped that the motive was to improve race relations. I have heard that they were purely political, and that there were other motives not even classified as high as political. Now, what I am saying to this subcommittee is our task, I think, as leaders of this Nation is to seek to improve race relations, not stir them up, and I am from a place which has been accused of having bad race relations, but has good or better than any State represented on this committee, and I am telling you that we can do it, despite all of the prejudices which are claimed of my section, and if we can do it, the Nation can do it. Give them a little guidance and help instead of being kicked around and having such stuff as that—I can about tell you where it came from. It sounds like it came from Time magazine. I can't see it, but it sounds like Time. But I can tell you this, that the press of this country and the leaders of this country should recognize now we have a terrific task, and the instance which you pointed out just now shows the magnitude of our task and the instance which you pointed out right now points out the thing I made significant in my testimony, I think, that since this 1954 decision we are having more troubles instead of less, and since the Civil Rights Commission was created we are having more trouble than, and if we keep on inflaming it, instead of getting guidance out of it, we are going to have the worst relations in this country that you can imagine, and you can lay the blame at the feet of the Supreme Court, and at the feet of the dogooders, it seems to me, because it seems to me that people who have lived side by side with the wonderful Negro people in the same community as we have and have done business with them for years, and respect their religion as they respect ours, ought to know they will receive any benefit if we continue the present course. It is a course of destruction, it is a course of destruction of race relations beyond which can be imagined, and my purpose here is to beg of you to chart your course so that we will have better race relations, as good as they are. I

am recognizing the fact now that more than ever before that this is not just something for politics. I realize all along this is a difficult question. It is a question which has existed since there were Shem, Ham and Japheth, it will continue to exist, but we are not going to help it by beating it up and giving credence to such stories as come out in some of the magazines which think themselves on a crusade or something like that. We have a problem of leadership which I think is terrific, and I am concerned about it. I am terribly concerned because I see what is happening to my people and my Nation, and we have to think about those things and not about some political motive or whether it is in a party platform or not.

I have been distressed, sir, truly distressed, and each time I read an instance—I don't care whether it is New York, Detroit, Alabama or Mississippi—each time I read an instance I am distressed and I think how glad I am that didn't happen in my State and how distressed I feel for those people in whose State it did happen, whether it is yours or somebody else's, because I think we have this problem, and we have to take it to our soul and cast aside the political considerations if we are going to solve it.

I didn't mean to talk so much, but I have a deep feeling about it.

The CHAIRMAN. We are very interested in your talk, which is very enlightening, I assure you. We will put the balance of your statement in the record.

Mr. HEMPHILL. Thank you, Mr. Chairman.

The CHAIRMAN. Are there any questions?

Thank you very much.

The CHAIRMAN. The next witness is a gentleman who comes from the good State of Louisiana and our distinguished colleague, I think, wants to say a few words about him.

Mr. WILLIS. In the absence of his Congressman, who is now attending his own committee meeting, I am glad to present to you Judge Leander H. Perez, a very capable lawyer and, as you say, he can speak for himself.

The CHAIRMAN. Mr. Perez, we will be glad to hear from you. Have you a statement, Mr. Perez.

Mr. PEREZ. I have one copy which I gave to the clerk. I will file it with the committee. I don't intend to follow my prepared statement, if the chairman please.

The CHAIRMAN. You do it any way you want. You want to put your prepared statement in the record?

Mr. PEREZ. Yes, sir.

The CHAIRMAN. That will be accepted.

Mr. PEREZ. Thank you.

(The statement reads as follows:)

STATEMENT BY JUDGE LEANDER H. PEREZ, PLAQUEMINES PARISH, LA.

Mr. Chairman and Members of the House Judiciary Subcommittee:

I appreciate the opportunity of appearing before you in opposition to H.R. 4457 and several other similar so-called civil rights legislative proposals, which so gravely involve the civil rights of the American people.

We should all approach the consideration of proposed legislation on this question of civil rights, with an eye single to the limitations placed upon Congress by the Constitution.

Sec. 8 of art. I grants to Congress power to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

The U.S. Attorney General appeared before this committee on March 11 and made an affirmative presentation to titles I through IV of H.R. 4457, which, he said, contained the following:

1. A proposal to strengthen the law with respect to obstruction of court orders in school desegregation cases (title I).
2. A proposal to punish flight to avoid prosecution for unlawful destruction of educational or religious structure (title II).
3. A proposal to require the preservation of Federal election records and authorizing the Attorney General to inspect them (title III).
4. A proposal to extend the life of the Civil Rights Commission for an additional 2 years (title IV).¹

1. Obstruction of court orders in school desegregation cases.

He refers to no act of Congress or provision of the Constitution which requires school desegregation, or forced racial integration, because there is no such Federal law.

Title I would amend the criminal code, by adding a new section, 1509 to chapter 73 of title 18. This proposed new section would introduce a completely new subject matter, restricted entirely to court orders in school desegregation cases.

The Attorney General says that the relevant obstruction of justice statute appears to be inadequate.

The concluding clause of section 1503 on Obstruction of Justice provides, "whoever * * * corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice, shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both."

It is obvious that when the Attorney General says that the provision of the existing law on Obstruction of Justice does not cover the provisions of title I, he at least inferentially admits that there was no basis in law, or administration of justice, involved in the subject matter of title I which would prohibit, under the guise of "obstruction of certain court orders", anyone to interfere with or obstruct, etc., "any order, judgment, or decree of a court of the United States which (1) directs that any person or class of persons shall be admitted to any school, or (2) directs that any person or class of persons shall not be denied admission to any school because of race or color, or (3) approves any plan of any State or local agency the effect of which is or will be to permit any person or class of persons to be admitted to any school," under penalty of a fine of \$10,000 or imprisonment up to 2 years, or both.

Why?

Isn't it obvious that the Attorney General admits that these Federal court orders, judgments or decrees attempting to force racial integration upon the people of this country generally, and particularly upon the people of the South, are not based upon any law of Congress or provision of the U.S. Constitution, and therefore do not constitute administration of justice?

As a matter of fact, that is just the case and the U.S. Supreme Court said so clearly and unmistakably in its May 17, 1954, desegregation decisions.

After the Court had taken jurisdiction of the school desegregation cases from school districts in Kansas, Virginia, South Carolina, and the District of Columbia, on October 8, 1952, 344 U.S. 1; 73 S. Ct. 1; and after the Court on June 8, 1953, restored these cases to the docket and assigned them for reargument on October 12 next, with specific direction to discuss particularly the question of what evidence is there that the Congress which submitted and the State legislatures and conventions which ratified the fourteenth amendment contemplated or did not contemplate, understood or did not understand, that it would abolish segregation in public schools; or that future Congresses might in the exercise of their power under section 5 of the fourteenth amendment abolish such segregation, or that it would be within the judicial power, in light of future conditions, to construe the amendment as abolishing such segregation of its own force (345 U.S. 972, 73 S. Ct. 1114)?

¹ The same legislative proposals were introduced by Chairman Celler as separate bills. See H.R. 4338, 4339, 4342, 4344.

In its May 17, 1954, decision, reported as *Brown v. Board of Education*, 347 U.S. 483, 74 S. Ct. 686, the U.S. Supreme Court said:

"Reargument was largely devoted to the circumstances surrounding the adoption of the fourteenth amendment in 1868. It covered exhaustively consideration of the amendment in Congress, ratification by the States, then existing practices in racial segregation, and the views of proponents and opponents of the amendment. This discussion and our own investigation convince us that, although these sources cast some light, it is not enough to resolve the problem with which we are faced. At best, they are inconclusive."

* * * * *

"An additional reason for the inconclusive nature of the amendment's history, with respect to segregated schools, is the status of public education at that time. In the South, the movement toward free common schools, supported by general taxation, had not yet taken hold."

* * * * *

"As a consequence, it is not surprising that there should be so little in the history of the fourteenth amendment relating to its intended effect on public education."

After the Court cited several of its previous decisions upholding the "separate but equal" doctrine in the field of public education, and finding that the Negro and white schools involved had been equalized, with respect to buildings, curricula, qualifications and salaries of teachers, and other tangible factors, the Court held that their decision could not turn on merely a comparison of these tangible factors in the Negro and white schools involved in each of the cases. The Court then said it must look into the effect of segregation itself on public education, and that in approaching this problem, they (the 9 Justices) could not turn the clock back to 1868 when the amendment was adopted, or even to 1896 when *Plessy v. Ferguson* was written.

In so many words, the U.S. Supreme Court said that they could not go along with the fourteenth amendment or construe the provisions of the fourteenth amendment as applicable to these schools desegregation cases, and that in approaching the problem they could not turn the clock back to 1868 when the amendment was adopted.

Didn't the Court in so many words, therefore, repudiate the fourteenth amendment.

And didn't the Court also repudiate every prior decision of the same Court and of every other court of the land, Federal and State, which had been affirmed by the U.S. Supreme Court since 1849, before and after the fourteenth amendment.

After the Court repudiated the fourteenth amendment and finding no basis for its holding in the history of the adoption of the fourteenth amendment applicable to public education, the Court then floundered about to justify its decision on the basis of the importance of education to our democratic society.

Then the Court went into the realm of psychological and sociological speculation on the effect of segregation of children in the public schools, and concluded that,

"To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone."

And, the Court concluded,

"Whatever may have been the extent of psychological knowledge at the time of *Plessy v. Ferguson*, this finding is amply supported by modern authority.² Any language in *Plessy v. Ferguson* contrary to this finding is rejected.

"We conclude that in the field of public education the doctrine of 'separate but equal' has no place."

In considering the psychological and sociological purported authorities cited by the Court in its footnote 2, one need only refer to the data furnished from the official files of the House Un-American Activities Committee and the Attorney General, by Senator Eastland (Democrat, Mississippi), on May 26, 1955, in his speech on the floor of the Senate on the Supreme Court's "Modern Scientific

² K. B. Clark, *Effect of Prejudice and Discrimination on Personality Development* (Mid-century White House Conference on Children and Youth, 1950); Witmer and Kotinsky, *Personality in the Making* (1952), c. VI. Deutscher and Chein, *The Psychological Effects of Enforced Segregation; a Survey of Social Science Opinion*, 26 J. Psychol. 259 (1948); Chein, *What Are the Psychological Effects of Segregation Under Conditions of Equal Facilities?*, 3 Int. J. Opinion and Attitude Res. 229 (1949); Brameld, *Educational Cost, in Discrimination and National Welfare* (McIver, ed., 1949), 44-48; Frazier, *The Negro in the United States* (1949), 674-681. And see generally Myrdal, *An American Dilemma* (1944).

Authorities" in the segregation cases, that the so-called authorities on psychology and sociology adopted by the Supreme Court as the basis for its school racial integration decision on May 17, 1954, included dozens of characters who had been officially cited by the U.S. Attorney General and the House Un-American Activities Committee as being member of scores of pro-Communist and subversive organizations dedicated to the overthrow of our Constitution and Government.

I ask leave of the chairman to file a copy of this exposure by Senator Eastland as a part of my appearance before this Committee.

A further transgression against the Constitution by the Supreme Court in those school desegregation cases should be stated for the record.

So-called modern authorities on psychology and sociology and their writings, cited by the Court, had not been called as witnesses nor were their writings submitted during the trial of the case in the federal district courts, but for the first time they were submitted in an appendix to a brief filed by the NAACP attorneys in the U.S. Supreme Court—without opportunity of cross-examination by the defendants.

The very use of such purported authority as evidence, without opportunity to cross-examine, explain or rebut was held to be a denial of "due process of law" in other cases by the very court which used it to repudiate the 14th amendment, reject jurisprudence and to amend the Constitution in 1954.

The same Court, through Justices Brandeis, Cardozo, and Holmes, had held that nothing can be treated as evidence which has not been introduced as such, and that to decide a case on any evidence not of record constituted a denial of the fundamentals of a trial, and such would not be the fair hearing essential to due process, but instead would be condemnation without trial. *U.S. v. Abilene & So. Ry. Co.*, 265 U.S. 274, 288; *Ohio Bell Tel. Co. v. Public Utilities Comm.*, 301 U.S. 292; *Saunders v. Shaw*, 244 U.S. 317.

Let us go back to the statement by the Attorney General that the "Obstruction of Justice" statute appears to be inadequate.

When taken in the light of the Supreme Court school desegregation decisions of May 17, 1954, in the light of the above, there can be no doubt but that such decisions do not constitute "due administration of justice."

The broad provision enacted by Congress in the "Obstruction of Justice" statute (18 U.S.C. § 1503), prohibiting anyone by threats or force from obstructing "the due administration of justice" under heavy penalties, have a clear and unmistakable meaning. That covers court orders, judgments, or decrees based upon law—but not those based upon the repudiation of a constitutional amendment and settled jurisprudence, but upon the adoption of foreign ideologies or the sociological whims of the judges of any of our Federal courts.

If the desegregation or forced racial integration decisions of the Court had as their basis, the administration of justice under law, then the "Obstruction of Justice" statute applies, and we need no new enactment by Congress which, in effect would put its stamp of approval on the adoption by the Court of the writings of members of pro-Communist and subversive groups dedicated to the overthrow of our constitutional form of government.

That is the evident purpose of titles I through IV and VI and VII of H.R. 4457.

If Congress should enact this type legislation, regardless of its unconstitutionality, then the legislative branch of our Government would put itself on record as favoring the Communist conspiracy and the Communist penetration of our Government, which it has been attempting to do through the infiltration of various departments for many years.

For fear that this statement may appear to be rash, let me file in connection therewith, the official Report of the Subcommittee on Internal Security of the United States Senate Judiciary Committee, 83d Congress, 1st session, on "Interlocking Subversion in Government Departments," dated July 30, 1953.

It is a well-known fact, especially to Members of Congress, that the Communist Party set up scores and scores of Communist fronts to infiltrate and to penetrate not only government but all facets of American life.

The sociological writings of the pro-Communist and subversive authors adopted by the court are not disassociated with the Communist conspiracy against our Nation and its people.

This negro question is well set out in a Communist pamphlet entitled, "American Negro Problems," by John Pepper, in which there was set out the principal demands of the 1928 Communist Party platform for the oppressed Negro masses.

Virtually the same platform has been adopted by the NAACP, the principal

party plaintiff in the school integration cases, whose so-called authorities first cited in their brief were adopted by the court in its footnote 11.

The Supreme Court reviewed the same Communist proposals in *Herndon v. Lowry* (1937), 301 U.S. 242, 57 S. Ct. 732.

Among the demands of the Communist Party platform were:

1. Abolition of the whole system of race discrimination. Full racial, political, and social equality for the negro race.

* * * * *

4. Abolition of laws forbidding intermarriages of persons of different races. It is relevant here to refer to the subversive character of the NAACP, as compiled in the Congressional Record of February 23, 1956, pp. 2805 to 2849. I ask leave of the chairman to make part of my presentation that portion of the Congressional Record.

One of the founders of the NAACP, Wm. E. B. DuBois (whose Communist-front record is shown in said Congressional Record on pp. 2806-2809, and who is reputed to have more Communist-front citations than any other individual in this country, wrote an editorial in the Pittsburgh Courier, of January 14, 1950, in which he clearly stated the communistic "Social Equality" policy of the NAACP, as follows:

"QUESTION OF SOCIAL EQUALITY"

"Finally there comes the question of social equality, which, despite efforts on the part of thinkers, white and black, is after all the main and fundamental problem of race in the United States. Unless a human being is going to have all human rights, including not only work, but friendship, and if mutually desired, marriage and children, unless these avenues are open and free, there can be no real equality and no cultural integration."

The Black Monday decision, which this proposed legislation seeks to make the "supreme law of the land" by congressional enactment, attempts the forcible integration of millions of white children and millions of Negro children in the southern States.

The question here involved is not concerned with educational policy, nor with educational practices in the public schools.

The pro-Communist dominated hybrid political association, the NAACP and Communist-fronts know that under the present system in the South Negroes under the "separate but equal facilities rule" can obtain a satisfactory education.

The question in these cases is how to employ the coercive power of the Federal Government to produce racial integration in the South—or how to produce turmoil, chaos, and national disunity in the Communist cause.

The public school system was seized upon as the one instrumentality under which the whole population could be held in coercive physical contact from early childhood to maturity. This should be clearly understood by all. They should concentrate their thinking not only upon education in the public schools but upon attempted racial integration and mongrelization.

How do the Commy-fronters, through the NAACP, propose to accomplish this integration?

What are their methods?

Here is the pattern which this type legislation would back up with the coercive power of the Federal Government.

Beginning at the age of six, little white and Negro children—boys and girls—would be forced into continuous physical contact with each other in public schools and public school activities. They would study together, recite together, sing together, play together, sit together, talk together, and dance together. They would eat lunch together, from food provided by the Federal Government. In this manner they would go through the grade school, through high school, through college, and through university. The social theory behind this procedure is that this close and intimate association during the entire formative period of their lives would, in itself, produce integration or, in other words, amalgamation of the races. Fantastic as it may appear, the social aim is a negroid South.

We know from the report of the committee of the District of Columbia to investigate public school standards and conditions, that 2 years after forced racial integration there the Washington, D.C., public schools suffered a much lower educational standard; that although there were about 60,000 white students to about 33,000 Negro students, 2 school years after forced racial integration, there were only 34,000 white students to more than 74,000 Negro stu-

dents; that in 12 formerly all white elementary schools, in the short space of 2 years, there were 91.8 percent Negroes to only 8.2 percent white students, and that the white population is fast leaving Washington as a result of these horrible conditions affecting their children.

The congressional committee reported that testimony of schoolteachers showed that racial integration brought disciplinary problems which were appalling, demoralizing, intolerable, and disgraceful; that colored girls used language that was far worse than they had ever heard; that fighting, stealing, vandalism, obscene writing, absenteeism, and truancy increased to an amazing degree; that white girls complained of being touched by colored boys in a suggestive manner when passing them in the halls; that there were 27 Negro girl pregnancies in one school the previous year, one in the fifth grade; and that the integrated schools had to be constantly policed.

As a result of the serious problems brought about by forced racial integration, many white teachers underwent mental and physical sufferings. Some had to resign; others retired before the fixed date of their retirement, and many indicated that they will leave the school system as soon as possible for them to do so.

Those conditions were shown to exist in Washington, D.C., because of forced racial integration of the public schools, by an official investigation by a congressional committee.

In the face of such a record, proving beyond any doubt the destruction of our public school educational system through forced racial integration, how can any loyal American citizen honestly persist in advocating forced racial integration?

Has it not been proven beyond any doubt, that forced racial integration has destroyed the public educational system in the Nation's Capital, and the same fate will befall any other public educational system which may be doomed by forced racial integration in this country?

Can it be denied that it is the purpose and policy of the Moscow-directed Communists and their fellow-travelers in this country to destroy the education of our youth by pro-Communist infiltration in our universities and school systems throughout the country, in their introduction of progressive education and in their militant support and advocacy of forced integration in our public school system, to destroy the last vestige of good educational opportunities for millions of children throughout the land and particularly in our Southern States.

It is more than passing strange how the writings of pro-Communists are adopted by Justices of the Supreme Court in efforts to justify their sociological stand for forced racial integration.

In the case which went to the United States Supreme Court after the Little Rock incident, *Cooper v. Aaron*, 358 U.S. 1; 78 S. Ct. 1401, we find Justice Frankfurter at p. 1413, stating in his concurring opinion, the following:

"Local customs, however hardened by time, are not decreed in heaven. Habits and feelings they engender may be counteracted and moderated. Experience attests that such local habits and feelings will yield, gradually though this be, to law and education."

That language was taken almost verbatim from an article entitled, "The Uses of Law in the Struggle for Equality," by the Director of the Commission on Law and Social Action of the American-Jewish Congress, appearing in a booklet published in June 1955 entitled, "The Uses of Law for the Advancement of Community Relations."

It is interesting to note that in 1948, California's Legislative Committee on Un-American Activities and Communist-front Organizations, reported from their investigation that resolutions adopted by the Conventions of the American-Jewish Congress indicated the organization's adherence to the Communist Party line, and that its president has a long record of Communist-front affiliations (p. 146).

It might be pertinent here, in connection with the Attorney General's admission that the Court desegregation orders and decrees may not properly be included in the category of "due administration of justice", to point out another relevant circumstance of that recent Little Rock case.

There the Chief Justice as organ of the Court, without a dissent from any of the other Justices, stated:

"However, we should answer the premise of the actions of the Governor and Legislature that they are not bound by our holding in the Brown case."

"It is necessary only to recall some basic constitutional propositions which are settled doctrine."

"Article VI of the Constitution makes the Constitution the 'Supreme Law of the Land.' In 1803, Chief Justice Marshall, speaking for a unanimous Court, referring to the Constitution as 'the fundamental and paramount law of the nation,' declared in the notable case of *Marbury v. Madison*, 1 Cranch 137, 177, 2 L. Ed. 60, that 'It is emphatically the province and duty of the judicial department to say what the law is.'

There Chief Justice John Marshall was commenting for the Court on the duty of that Court to interpret the Constitution, and not to change it by substituting pro-Communist writings which attacked the Constitution as being "a plot against the common people," or as being "ill-suited for modern conditions" as in Myrdal's book, "An American Dilemma."

But let me quote further from that notable case, referred to by Warren, when Chief Justice Marshall also said:

"Why does a judge swear to discharge his duties agreeably to the Constitution of the United States, if that Constitution forms no rule for his government?"

and he added:

"If such be the real state of things, this is worse than solemn mockery. To prescribe, or to take this oath, becomes equally a crime."

And Chief Justice Marshall for a unanimous Court solemnly concluded that:

"courts, as well as other departments, are bound by that instrument."

Isn't it apparent, therefore, that if the Chief Justice as organ of the Court had properly quoted from that old and leading case of *Marbury v. Madison*, he would have had to admit that repudiating the plain intent of a constitutional amendment and rejecting prior decisions of the same court based on interpretations of law, and substituting therefor the adoption of pro-Communist and subversive writings on psychology and sociology was not "due administration of justice" but instead, in the words of the great Chief Justice Marshall, was "worse than solemn mockery."

PATTERN OF LEGISLATION

This type of proposed legislation by the Federal Congress is no innovation—it follows the pattern of the various bills enacted by Congress which set up a reign of terror and persecution against the people of the Southern States following the Civil War.

They are based upon the provisions of the XIV and XV amendments to the U.S. Constitution—the validity of the adoption of which amendments is more than doubtful, because the adoption of said amendment was fraudulently imposed upon the people of the Southern States, while they were deprived of their rights of suffrage under the guise of similar so-called civil rights laws of the Federal Congress, backed up by military oppression and dictatorship.

The civil rights bills would reenact the same systematic persecution and oppression against the people of the South in an effort to destroy their biracial civilization through a Commission on Civil Rights backed up by a Bureau of Civil Rights in the Department of Justice, by unlimited increased numbers of F.B.I., or Federal Police, to the extent necessary to carry out the purposes of these bills, and also backed up by all Federal departments, including the military, if need be.

Similar reconstruction measures, or so-called civil rights laws adopted by Congress for political purposes were held to be unconstitutional by the U.S. Supreme Court.

The Court held that the restraints of the XIV amendment ran against the States and not against individuals.

So the U.S. Supreme Court has repeatedly held that it is a violation of the Constitution of the United States for Congress to legislate with respect to the civil rights of individuals; and that such legislation is repugnant to the 10th amendment of the Constitution, which declares that powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.

That belongs to the exclusive jurisdiction of the States under their police power.

The decisions of the U.S. Supreme Court in the civil rights cases of the reconstruction period marked the end of attempts by Congress to enforce civil rights under the XIV amendment until recent years.

The motive for advocating the enactment of so-called civil rights laws in recent years can hardly be prompted by the bitterness resulting from the Civil War. Those wounds have long since been healed.

The motive, therefore, for the political conspiracy to impose such legislation against the people of this country should be sought out and exposed. Where do we find similar laws enacted under the guise of protecting the civil rights of the people, as a disguise or alibi for depriving the people of their rights to liberty and freedom?

Recent history records the nationalization of all civil rights of individuals in other countries with most horrible results.

The first evidence of the enactment of such so-called civil rights laws in modern times is found in Russia, where human slavery of men, women, and children is a basic part of the Russian economy.

STALINISM

It is reported that after the civil war was won by the revolutionists in Russia, Stalin's Georgian State was the first to adopt a system of so-called civil rights laws. Joe Stalin was the administrator of these laws, and the enforcement of their provisions gave him such absolute control over the people of his Georgian State, that he rose in power and succeeded in overthrowing Trotsky, after which there occurred a series of purges, killings, and enslavements such as the world had never before seen.

We do not know but that Stalin may have adopted his so-called civil rights laws for the control of all the people of his Georgian State, because he learned from reconstruction history of the ironclad, cruel dictatorship which similar so-called civil rights laws had imposed upon the people of the South during reconstruction times.

Be that as it may, the so-called civil rights laws were reborn in Russia and have been used mercilessly in the communistic pattern to enslave the Russian people.

RUSSIAN CONSTITUTION

Article 123 of the U.S.S.R. Constitution (Joe Stalin's all races law) provides that—

"Equality of rights of citizens of the U.S.S.R., irrespective of their nationality or race, in all spheres of economic, government, cultural, political, and other public activity is an indefeasible law."

This is the law which Joe Stalin used to make himself the supreme dictator of Russia, because it gave him absolute power over all Russians. Yet, we know what kind of equality and rights Russians have.

Further, the same type of so-called civil rights laws have been imposed upon the people of other countries brought under Russia's merciless rule.

LATVIAN CONSTITUTION

So we find in the constitution of the Latvian Soviet Socialist Republic imposed upon Latvia, on August 30, 1940, the following provision:

"Article 95. The equality of rights of the citizens of the Latvian S.S.R., regardless of their nationality and race, in all branches of economic, state, cultural, and social-political life is an unalterable law."

YUGOSLAVIA CONSTITUTION

And, again, we find in the Constitution of the Federative People's Republic of Yugoslavia, the following provisions:

"Article I. Any limitation of rights, or the granting of any concessions or privileges to citizens of the F.P.R.Y. on the grounds of difference of nationality, race, or religion, which contravene the constitutional principles of equal rights for all citizens and people and fraternity and unity of the peoples of the F.P.R.Y., shall be punished under this law."

A special pamphlet was published by the Yugoslavia Government in 1947, in which the following commentary is made on their so-called civil rights laws:

"As the leader of the liberation struggles of the peoples of Yugoslavia, Marshal Tito, has pointed out many times:

* * * * *

"the importance and value of the law prohibiting incitement to national racial, and religious hatred and discord, is clear. It is not founded merely on the constitutional provision prohibiting any act by which citizens are granted privileges or by which their rights are restricted on the basis of nationality, race and religion, and prohibiting the preaching of national, racial, and religious hatred and discord. This law has its firm material basis in the whole social order of the new Federative People's Republic. This law constitutes one of the weapons in the fight against the remnants of the old social and state order, a weapon in the struggle against the remnants of the old ideologies and inherited ideas which have remained in the heads of backward individuals and reactionary groups (especially the remnants of the ustashas and chetniks).

"That is why this law is a powerful weapon in the hands of the state for the suppression of any individual who attempts to hinder the great deed of the development of the progressive fraternal community of our peoples on the principle of true national equality."

It is pointed out that when Russia became our ally against Germany and was put on lend-lease, Russia became popular in the United States, and friends of the Russian form of government infiltrated into employment in the Federal public service at all levels, as shown by the Senate Judiciary Subcommittee report on "Interlocking Subversion in Government Departments."

Can there be any doubt but that those of the Russian faith who infiltrated in our Federal Government skillfully sponsored the idea of reviving the so-called civil rights Federal legislation in this country—the Joe Stalin way.

Is it not plain that the same brain and hand that dictated the Russian, the Latvian, and the Yugoslavian provisions for so-called civil rights also dictated a part of the Report of the President's Committee on Civil Rights, when on p. 6, language identical with that found in the Yugoslavia report is also found in the "Report of the President's Committee," as follows:

"It is the purpose of government in a democracy to regulate the activity of each man in the interest of all men."

and, again, on p. 100:

"We cannot afford to delay action until the most backward community has learned to prize civil liberty and has taken adequate steps to safeguard the rights of every one of its citizens."

To those who would willfully or unthinkingly tread the path via the so-called civil rights laws to the Russian way of life, as against the American constitutional principles of individual liberty and freedom and self-government we recommend that they read the 1938 publication of the "Official History of the Communist Party," including the rise of Stalin and the Russian purges, which went hand in hand with the enslavement of the Russian people as a result of Joe Stalin's All Races Laws.

Unconstitutionality

Looking at title I from the purely constitutional angle, it is clear that Congress does not have the authority to pass a law which would make it a crime for individuals to oppose racial integration.

The Supreme Court of the United States has in no uncertain terms pronounced the theory that such legislature as is attempted here is contrary to the Constitution. In a group of cases consolidated and tried under the title of "The Civil Rights Cases" (1883), reported in 109 U.S. 3, 3 S. Ct. 18, 21, 23, the Court held that under the 14th amendment, Congress had the power to enact legislation to correct the effects of prohibited State law and State acts, and thus to render them effectually null, void, and innocuous. This is the legislative power conferred upon Congress, and this is the whole of it. It does not invest Congress with power to legislate upon subjects which are within the domain of State legislation; but to provide modes of relief against State legislation, or State action, of the kind referred to. It does not authorize Congress to create a code of municipal law for the regulation of private rights;

* * * * *

Such legislation cannot properly cover the whole domain of rights appertaining to life, liberty, and property, defining them and providing for their vindication. That would be to establish a code of municipal law regulative of all private rights between man and man in society. It would be to make Congress take the place of the State legislatures and to supersede them.

"Since the decision of the U.S. Supreme Court in the Civil Rights Cases, 1883, 109 U.S. 3, 3 S. Ct. 18, 27 L. Ed. 835, the principle has become firmly embedded in our constitutional law that the action inhibited by the 1st section of the 14th amendment is only such action as may fairly be said to be that of the States. That amendment erects no shield against merely private conduct, however discriminatory or wrongful." *Shelley v. Kraemer* (1948), 68 S. Ct. at p. 843.

In *Collins v. Hardyman*, 341 U.S. 651, 71 S. Ct. 937, 939, the U.S. Supreme Court held that an act of Congress which provided civil remedies for certain conspiracies against alleged "civil rights" was unconstitutional. The Court held the act, which had long been dormant, popularly known as the Klu Klux Act, was passed by a partisan vote in a highly inflamed atmosphere, preceded by spirited debate, which pointed out its grave character and susceptibility to abuse, and its defects soon realized brought about a severe reaction.

The Civil Rights Commission Act of 1957, which would be perpetuated by title IV, contains a similar unconstitutional provision for civil damages (pt. III, sec. 121, 4).

Further, the same act (pt. IV, sec. 131), applies to "persons" acting without State authority, and likewise is unconstitutional.

Recently a Federal district court in Macon, Ga., held this act unconstitutional because it gave the Attorney General power to seek injunction against private citizens. This holding is in accord with Supreme Court decisions.

In *U.S. v. Cruikshank*, 92 U.S. 588, 93 S. Ct. 542, 554, the U.S. Supreme Court held:

"In *U.S. v. Reese* * * * that the 15th amendment has invested the citizens of the United States with a new constitutional right, which is, exemption from discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude. From this it appears that the right of suffrage is not a necessary attribute of national citizenship; but that exemption from discrimination in the exercise of that right on account of race, is * * * The right to vote in the States comes from the States; but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by the Constitution of the United States; but the last has been."

In *Slaughter House Case* (1873), 83 U.S. 895, 408, 83 S. Ct. 36, the Court held:

"Was it the purposes of the 14th amendment, by the simple declaration that no State should make or enforce any law which shall abridge the privileges and immunities of citizens of the United States, to transfer the security and protection of all the civil rights which we have mentioned, from the States to the Federal Government? And where it is declared that Congress shall have the power to enforce that article, was it intended to bring within the power of Congress the entire domain of civil rights heretofore belonging exclusively to the States?"

"All this and more must follow, if the proposition of the plaintiffs in error be sound. For not only are those rights subject to the control of Congress whenever in its discretion any of them are supposed to be abridged by State legislation, but that body may also pass laws in advance, limiting and restricting the exercise of legislative power by the States, in their most ordinary and usual functions, as in its judgment it may think proper on all such subjects. And still further, such a construction followed by the reversal of the judgments of the Supreme Court of Louisiana in these cases would constitute this court a perpetual censor upon all legislation of the States, on the civil rights of their own citizens, with authority to nullify such as it did not approve as consistent with those rights, as they existed at the time of the adoption of this amendment. The argument, we admit, is not always the most conclusive which is drawn from the consequences urged against the adoption of a particular construction of an instrument. But when, as in the case before us, these consequences are so serious, so far reaching and pervading, so great a departure from the structure and spirit of our institutions; when the effect is to fetter and degrade the State governments by subjecting them to the control of Congress, in the exercise of powers heretofore universally conceded to them of the most ordinary and fundamental character; when in fact it radically changes the whole theory of the relations of the State and Federal Governments to each other and of both these governments to the people; the argument has a force that is irresistible, in the absence of language, which expresses such a purpose too clearly to admit of doubt."

II. *Flight to avoid prosecution for destruction of educational or religious structures.*

The proposal to add section 1074 to chapter 49 of title 18, under the subject of "Fugitives from justice," evidently is of the same pattern of reconstruction legislation referred to by the Court in *Collins v. Hardyman* just referred to.

It is selective and discriminatory as no criminal statute should be.

If it is the genuine desire of the advocates of this bill and of Congress to enact legislation to prohibit flight to avoid prosecution, or to punish fugitives from justice along the same general lines as found in sections 1071 to 1073 of chapter 49, title 18, then why should there be a provision that one would be guilty of a criminal act of flight to avoid prosecution, under State law, for willfully damaging or destroying by fire or explosive any building, structure, facility, or vehicle only if such building, structure, facility, or vehicle is used primarily for religious purposes or for the purposes of public or private primary, secondary, or higher education?

Why can't we all join our efforts to enact such law to prohibit flight to avoid prosecution for damage or destruction of any such building or facility by fire or explosives, regardless of whether such building is used for educational, religious, manufacturing, business, residential, etc., etc., purposes?

Is one any less a criminal in the eyes of Congress if he sets explosives or sets fire to homes where fathers and mothers and their children are sleeping peacefully at night?

Honestly, can people at this late day be so moved by hate and intolerance as to sponsor such a narrow gaged bill, which would punish one class of offenders and impliedly put their stamp of approval on the same type of offenders who might destroy private homes and their properties, and commit multiple murders by their criminal arson, and then flee from justice against State lines with impunity?

III. *Production and inspection of voting records.*

The provisions of title III of H.R. 4457 would require State and local election officials to retain for a period of 3 years all registration, poll tax, and election records, under criminal penalties.

This title would place further regulations on State and local registration officials to subject them to the authority of the U.S. Attorney General and Federal courts for the production of such records under threat of punishment for contempt of court, are patently beyond the legislative authority of Congress, and unconstitutional.

This was well and thoroughly pointed out in the statement of Attorney Charles A. Block before this committee on April 16.

Certainly, the authority of Congress under article I of section 4 of the Constitution, to alter State legislative regulations as to the manner of holding elections for U.S. Senators and Representatives, refers only to regulations regarding manner of holding elections, which means regulations in connection with the actual holding of elections. This authority does not extend or supersede State legislative regulations for the preservation of its registration or election records, whether for 1 year or for 3 years, as proposed in title III.

Mr. Bloch analyzed the Federal jurisprudence, beginning with the Newberry case, then the Classic and following cases, under neither of which it could be construed that Congress had the constitutional authority to legislate as provided in title III.

IV. *Extending the life of the Civil Rights Commission.*

Title IV would extend the life of the Civil Rights Commission permanently.

It should be noted that paragraph (c) of section 104 of the 1957 act, which provided that 60 days after the submission of its final report and recommendations the Commission shall cease to exist, is left out of title IV.

Section (b) provides for final and comprehensive report 4 instead of 2 years from the date of this act.

So, evidently, it is the purpose of title IV of this proposed legislation to set up a Commission permanently to harass not only State and local officials, but people generally on the subject of registration, elections, housing, education, or any other subject which the said so-called Civil Rights Commission, or those who may prompt them for expected political gains, to study and collect information concerning local developments constituting a denial of equal protection of the laws under the Constitution, as provided in paragraph 2 of section 104 of the 1957 Civil Rights Commission Act.

TITLE V.—COMMISSION ON EQUAL JOB OPPORTUNITY UNDER GOVERNMENT CONTRACTS

It would be difficult at this late date to justify a practice which was initiated by a President without congressional authority during the New Deal many years ago. If the President had such executive authority under the Constitution, for Congress to legislate on the subject might be considered an encroachment on the Executive authority.

TITLE VI.—EDUCATION OF CHILDREN OF MEMBERS OF ARMED FORCES

If a majority of Congress is determined to run roughshod over the minority, to carry out the conspiracy for forced racial integration, a sense of fair play and justice would seem to indicate that the Federal Government should not only provide all facilities for the education of children of members of Armed Forces, but should provide school facilities for its other hapless citizens who may be compelled to accept racial integration for their schoolchildren under the coercive power of the Federal Government.

TITLE VII.—GRANTS TO ASSIST STATE AND LOCAL EDUCATIONAL AGENCIES TO EFFECTUATE DESEGREGATION

The offer of unspecified and unappropriated grants of funds to States to effectuate desegregation, racial integration, and eventual mongrelization is an insult to a free people with proud American traditions to support them against the efforts of many in the Federal Government to bring about the forced racial integration conspiracy in this country, to satisfy their own perverted ideologies and intolerance.

In this connection, may I offer some pertinent historic quotations:

The question of how far the Court may pursue its evident purpose to tear down our Constitution and destroy all States rights and individual liberty and freedom, and to bring about turmoil and strife and national disunity, to destroy the education of our youth and ultimately weaken our national defense to a position of helplessness against the Communist conspiracy, and how far Congress will go in supporting such injudicious edicts, remain to be seen.

We are reminded of the unchallenged statement of a great southern historian, Charles Wallace Collins, when he said:

"One may search the record of the history of nations, peoples, governments, and minority populations and there will be found examples of genocide, extinctions, enslavements, torture, and exile, but there will not be found one single instance where a government has forced one race against its will to be integrated with another. In these racial integration cases, here under discussion, we see the first employment of this procedure. It comes in the 20th century in the constitutional Republic of the United States of America."

This brings to mind the prophetic warning of Thomas Jefferson that:

"The germ of dissolution of our Federal Government is in the Constitution of the Federal judiciary. An irresponsible body (for impeachment is scarcely a scarecrow) working like gravity by night and by day, gaining a little today and a little tomorrow, and advancing its noiseless step like a thief over the field of jurisdiction until all shall be usurped from the States and the government of all be consolidated into one."

Undoubtedly, the people of the South and of the entire Nation are now confronted with this most grave problem.

Compare the communistic statement from the Hiss-Carnegie-Myrdal book, "An American Dilemma," adopted by the Court that "American liberty was dangerous to equality" with Alexander Hamilton's, when, speaking on the floor of the Constitutional Convention in Philadelphia, he said:

"Inequality will exist as long as liberty exists. It unavoidably results from that very liberty itself."

Every mind there assented.

Mr. Chairman, it is inequality that gives enlargement to intellect, energy, virtue, love and wealth. Equality of intellect stabilizes mediocrity. Equality of wealth makes every man poor. Equality of energy renders all men sluggards. Equality of virtue suspends all men without the gates of heaven. Equality of love would stultify every manly passion, destroy every family altar and mongrelize the races of men.

In his great work on civil liberty and self-government (188) at page 334, Francis Lieber said:

"Equality absolutely carried out leads to communism. Communism is but another name for equality in slavery."

We know the extreme penalty which would follow upon our children and our children's children for all time to come, if we fail to measure up to our responsibilities in this grave crisis.

Loyal leaders and patriotic people throughout the South have shown the way of solidarity and popular resistance to the attempted unlawful, arbitrary, cruel forcible imposition of communistic regimentation upon their children.

They have repudiated the pro-Communist-based edict of the Supreme Court in the defense of their constitutional rights and their loved ones.

They have helped to expose the treason to the Constitution committed by the Supreme Court.

Let us hope that the patriotic American people will not forget their wonderful heritage, and their obligation to support the Constitution which guarantees their liberty and freedom, and all join together in forever repudiating the unlawful usurpation by the Court in a manner which can only lead to the destruction of our educational system, and to strife, turmoil and national disunity, and finally to the very destruction of our civilization, of our racial integrity, and of our beloved United States.

It is well to be reminded of what Daniel Webster, the great statesman and a great American, said when he expressed a great truth and an undisputable fact, that:

"If our buildings, our highways, our railroads should be wrecked, we could rebuild them; if our cities should be destroyed, out of the very ruins, we could erect newer and greater ones; even if our armed might would be crushed we could rear sons who would redeem power, but if the blood of our white race should become corrupted and mingled with the blood of Africa, then the present greatness of the United States of America would be destroyed and all hope for the future would be forever gone. The maintenance of the American civilization would be as impossible for a negroid America as would the redemption and restoration of the white man's blood which had been mixed with that of a Negro."

Mr. Chairman and gentlemen of the committee, let us observe the purpose for which the Constitution was adopted and limited powers of legislation were granted to Congress, to form and to preserve a more perfect Union, establish justice, insure domestic tranquility, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity.

STATEMENT OF HON. LEANDER H. PEREZ, DISTRICT ATTORNEY, 25TH JUDICIAL DISTRICT, LOUISIANA

Mr. PEREZ. Mr. Chairman and gentlemen of the House Judiciary Committee: I appreciate the opportunity of appearing before you on this most important subject. I had occasion to read the statements made before this committee by Mr. Bloch, attorney general of Georgia, and Governor Patterson of Alabama, the attorney general of Mississippi and I subscribe in full to their statements and I hope I won't repeat too much of what they covered because I am sure this committee listened attentively and knows the contents of their statements.

I will address myself to House Resolution 4457 and several other similar legislative proposals which so gravely involve the civil rights of the American people. I am sure we can all agree that whenever legislative proposals are submitted they should be weighed with the thought uppermost in mind as to whether the subject of the legislation or certain details of the proposed legislation are within the legislative authority of Congress.

Section 8, clause 18, of article I of the U.S. Constitution grants to Congress power to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the Government of the United States or in any department or officer thereof.

The Attorney General appeared before this committee on March 11 and made an affirmative statement in support of the legislation proposed by House Resolution 4457 and he detailed the proposals first as one to strengthen the law with respect to obstruction of the court orders in school desegregation cases until title I.

The present law, which is title 18, chapter 73, section 1503 of the United States Code on obstruction of justice provides very much in the words of title I of this bill that "whoever * * * corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice,"—and I want to repeat—"the due administration of justice, shall be fined * * * and imprisoned," and so forth.

Now the Attorney General said that this provision in the law is insufficient to cover the subject of enforcing or prohibiting the interference with court orders which direct any person or class of persons to be admitted to any school or which directs any person or class of persons shall not be denied admission to any school because of race or color or approves any plan of any State or local agency, the effect of which is or will be to permit any person or class of persons to be admitted to any school.

Now those three classifications come under the Supreme Court decision first rendered in May of 1954. Evidently if the Supreme Court decision of May 1954 was based on law, it would have to be accepted as the administration of justice and any interference with the administration of justice flowing from that decision would be covered by the present law and there would be no need for the additional legislation. I don't think that proposition can be questioned. So naturally the question arises why is there need for this proposed additional legislation? What is wrong with the Supreme Court's school integration decision of May 1954? Do the proponents of this legislation mean to say that the U.S. Supreme Court decision in the Brown case, and the related cases or consolidated cases, do not constitute administration of law or the due administration of justice?

I think that calls for an analysis of that Supreme Court decision. Why doesn't that decision constitute due administration of justice. Is it because the Supreme Court did not base its decision on any section of the Constitution, any amendment of the Constitution, any act of Congress, but instead turned to the realm and writings on sociology and psychology as a basis for its decision. There is no doubt about that. In that decision the U.S. Supreme Court very plainly said, after it had continued the case, I think, from April until October for reargument on certain propositions, principally to give the attorneys in the case and the U.S. Attorney General the opportunity to research and of later arguing to the Court the background, the history of the adoption of the 14th amendment in its relation to public education, as to whether Congress had under that amendment authority to legislate, whether the Supreme Court had the authority under that amendment by judicial decree to interpret that it had any bearing on public education, and what did the Supreme Court find after reargument in October of that year? The Supreme Court said definitely that from its own research and from the arguments made very little light, if any, was shed in the subject of whether the 14th amendment had anything to

do with or related in any way to public education. The Court said of course it was natural that it didn't because when the amendment was adopted in 1868, there were no public school systems in the country. So it could not have related to public education; it could not have prohibited segregated public schools; it could not have authorized Congress or the Court to interpret the 14th amendment to hold that segregation in public schools operated by the States was unlawful.

But what did the Court say in that regard?

The CHAIRMAN. Mr. Perez, when the 14th amendment was adopted, we didn't have many modern inventions like automobiles or missiles or spaceships or what have you. Don't you think the 14th amendment would be applicable to actions involving those new matters which were not necessarily in the minds of sponsors of the legislation at the time of the adoption of the 14th amendment?

Mr. PEREZ. Of course, Mr. Chairman, I don't believe that question is relevant to the question of what I have just discussed. Automobiles or jet planes and the like, of course, are the product of modern invention and of improved technology, and so forth, but that is entirely foreign to the subject of whether the 14th amendment, as the Court found, had no relation to public education.

And what did the Court say as to the 14th amendment? The Court said, "We cannot turn the clock back to the time when the 14th amendment was adopted, nor to when *Plessy* against *Ferguson* was written in 1896, because at that time the Court did not have available to it the knowledge of modern psychology such as is now available to the Court," and in its footnote 11 the Court quoted authorities for its decision, citing Theodore Brameld, E. Franklin Frazier, K. B. Clark, Kotinsky, Deutscher and Chein, and generally, "see Myrdal, *An American Dilemma* (1944)." That was the basis of the authority cited by the Supreme Court for that decision.

So I say, Mr. Chairman and gentlemen, lawyers who have studied this case, people who have talked about that case——

The CHAIRMAN. Did you feel that the *Plessy* against *Ferguson* decision was sound?

Mr. PEREZ. Absolutely sound.

The CHAIRMAN. You felt that the interpretation placed by the Supreme Court upon the 14th amendment in 1896 in *Plessy* against *Ferguson* was proper?

Mr. PEREZ. Absolutely proper, sir, and let me add——

The CHAIRMAN. Why, if the Supreme Court comes forward now and interprets it differently, if you feel the Supreme Court had the right to interpret the Constitution, why do you accept it in one case and reject it in the other?

Mr. PEREZ. Because, sir, in the *Brown* and *Consolidated* cases in which the Court handed down a decision on May 17, 1954, the Supreme Court specifically and in so many words said that it was not basing its decision on any interpretation of the Constitution; the Supreme Court in so many words repudiated the 14th amendment. The Supreme Court said, "We cannot turn the clock back to the time when the 14th amendment was adopted, nor to the time when *Plessy* v. *Ferguson* was written." But, if you will let me continue, the Court in *Plessy* v. *Ferguson* did interpret the 14th amendment. The Court, in *Barber* v. *Connolly*, in another case I think about 1884, re-

ported in 113 U.S. 27, spelt out the police powers of the States and said that the States have always had the authority to prescribe regulations to promote the health, peace, morals, education, and good order of the people, and that decision has been followed or affirmed and reaffirmed by the Supreme Court in dozens and dozens of cases since then. But this Supreme Court departed from the law and the Constitution in the Brown case and said specifically that they couldn't follow the 14th amendment, said specifically that they couldn't follow *Plessy v. Ferguson*, because when that decision was written, the court did not have available to it a knowledge of modern psychology such as was now available to the Court, citing its footnote 11 as I have just quoted.

The CHAIRMAN. But weren't there a number of cases before the Brown decision, between the *Plessy v. Ferguson* decision and the Brown decision, which adumbrated the striking down of "separate but equal"? And you will find that on page 491 and 492 of the decision.

Mr. PEREZ. To the contrary, Mr. Chairman. I say that the Supreme Court in several cases affirmed the separate but equal doctrine. I think until as late as 1950 there were several cases in which the Supreme Court affirmed the separate but equal doctrine. That Brown case was the first in which the Supreme Court—

The CHAIRMAN. May I then read from the decision? I am reading from page 491.

Mr. PEREZ. Is this in the Brown case?

The CHAIRMAN. In the Brown case.

Mr. FOLEY. 347 U.S.

The CHAIRMAN. October term, 1953, page 491: "In this Court there have been six cases involving the 'separate but equal' doctrine in the field of public education. *Cummings v. County Board of Education*, 175 U.S. 528, and *Gum Long v. Rice*, 275 U.S. 78. The validity of the doctrine itself was not challenged. In more recent cases, all on the graduate school level, inequality was found in that specific benefits enjoyed by white students were denied to Negro students of same educational qualifications. *Missouri ex rel. v. Canada*, 305 U.S. 337; *Spituel v. Oklahoma*, 332 U.S. 631; *Sweatt v. Painter*, 339 U.S. 29 and *Florida v. Oklahoma State Regents*, 339 U.S. 637."

In *Sweatt v. Painter* the Court expressly preserved the decision on the question of whether *Plessy v. Ferguson* should be held inapplicable to public education. So we had these cases before the Brown decision, which tended toward that very Brown decision and all after *Plessy v. Ferguson*.

On the higher level, the law schools, the Court held that a Negro could not be barred and that the "separate but equal" law school would be insufficient and was illegal.

Mr. PEREZ. That is where the Court found there was not equal facilities, yes, sir, but where the Court found that there was separate but equal facilities the Court affirmed that doctrine. In the *Cummings* case, decided in 1899, the Court held: "The education of the people in schools maintained by State taxation is a matter belonging to the respective States, and any interference on the part of Federal authority with the management of such schools cannot be justified * * *." It was not until the Brown case that the Supreme Court got away from those decisions.

Then here is what the Court said in *Brown v. Board of Education*, after they found that there were separate but equal facilities provided. The Court said:

Our decision, therefore, cannot turn on merely a comparison of these tangible factors in the Negro and white schools involved in each of the cases. We must look instead to the effect of segregation on public education. In approaching this problem, we cannot turn the clock back to 1868 when the amendment was adopted, nor even to 1896 when *Plessy v. Ferguson* was written. We must consider public education in the light of its full development and its present place in American life throughout the Nation.

There the Court went into a consideration of policy.

Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws.

Next the Court said:

We come to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other tangible factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does.

Then the Court added, and here was its psychological findings:

To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone—delving into the realm of psychology and sociology, mental equations, and what not.

Whatever may have been the extent of psychological knowledge at the time of *Plessy v. Ferguson*, this finding is amply supported by what?

By a provision of the Constitution, by an act of Congress enacted pursuant to its authority under the Constitution? No, sir. By modern authority and what modern authority? Clark and Kotinsky, Theodore Brameld and Franklin Frazier, and Myrdal, "An American Dilemma," and the Court concluded, "We conclude that in the field of public education the doctrine of 'separate but equal' has no place," period.

Now that is the decision of the Supreme Court in the Brown case.

Now, then, isn't it clear that all that is attempted to be done by the legislation here proposed—

Mr. McCULLOCH. Mr. Chairman—

Mr. PEREZ. I beg your pardon.

Mr. McCULLOCH. I would like to ask the witness this question: Was there a motion for rehearing after final decision in the Brown case?

Mr. PEREZ. I should think there was.

Mr. McCULLOCH. Do you know as a matter of fact?

Mr. PEREZ. I don't, not definitely, but let me add this: Let me analyze the Brown case, if the committee pleases.

Mr. McCULLOCH. I think that is an important question by reason of the comments of so many able lawyers concerning that decision and the very heated attacks that have been made upon it. Why, if there was a postponement, why was there not an application for rehearing in view of all of this determined opinion concerning that decision?

Mr. PEREZ. I am not definite as to whether there was application for rehearing. I would say that in an ordinary course of legal proceedings, there must have been, but regardless of whether there was

application for rehearing or not, I am dealing strictly with the decision, the plain written words of the Supreme Court and the basis of its decision which was not law or any provision of the Constitution, but its findings on psychology, and sociological considerations.

Now, then, let me point out something else about this *Brown* decision. The authorities cited—in footnote 11—Clark, Frazier, Brameld, Myrdal, were not submitted as witnesses. Their books were not submitted in evidence on trial of the case in the District Court, but for the first time they were appended to a brief filed by the NAACP in the U.S. Supreme Court. The U.S. Supreme Court had held in previous cases that for any case to be decided on any evidence which was not submitted on trial of the case, subject to cross examination, constituted condemnation without hearing and was in violation of the due process clause of the fifth amendment. I don't know whether these matters have been brought out before this committee before, but that is the *Brown* decision.

Now, then how can Congress undertake to make that decision the supreme law of the land and to enact misdemeanor statutes to punish and to make criminals of those who would not follow it, or for those who might do anything to interfere with the execution of court orders based upon such decision?

The CHAIRMAN. Would you say that the Constitution as interpreted by the Supreme Court is the supreme law of the land?

Mr. PEREZ. Yes, sir; Mr. Chairman. If the Supreme Court had even purported to interpret the Constitution in its decision, we would be bound by it, but when the Supreme Court says in so many words we cannot turn the clock back to 1868 when the 14th amendment was adopted, there is nothing in the 14th amendment dealing with public education, so we will supply that void, we will refer to psychological and sociological writings, we will supply that void, we will make policy and therefore the doctrine of "separate but equal" is over—

The CHAIRMAN. It strikes me that you will accept the interpretation of the Supreme Court as to a constitutional provision provided it meets with your views, but you will reject it if it doesn't meet your views.

Mr. PEREZ. No, sir. I beg your pardon, sir. I am an attorney of many years practice. I was a judge for 5 years. I have been a district attorney for 34 years. I have helped to enforce the law in all of the various angles in the State of Louisiana, but I cannot subscribe and I will not subscribe to a decision of the U.S. Supreme Court which in so many words repudiates the relevant amendment of the Constitution, and cites as authority for its decision writers on psychology and sociology.

The CHAIRMAN. Wasn't this decision unanimous?

Mr. PEREZ. I beg your pardon. It repudiates a prior decision of the U.S. Supreme Court on the same subject matter which interpreted an amendment of the Constitution and resorts to psychological and sociological writings as the sole basis for its decision.

As an attorney I am sworn to uphold the Constitution. As a public officer I am sworn to uphold the Constitution, and so is the U.S. Supreme Court.

The CHAIRMAN. Counsel wishes to ask you a question?

Mr. FOLEY. In view of your statement not to subscribe to the ruling of the Court, in *Bolling v. Sharp*—

Mr. PEREZ. What is that rule?

Mr. FOLEY. I am quoting from 347 U.S., page 500, the case of *Bolling v. Sharp*.

Mr. PEREZ. I recall that case.

Mr. FOLEY. It was handed down as the companion case to *Brown v. Topeka*, in which the Court said this: Page 500.

In view of our decision that the Constitution prohibits the States from maintaining race-segregated public schools, it would be unthinkable that the same conclusion would impose a lesser duty on the Federal Government. We hold that racial segregation in public schools of the District of Columbia is a denial of due process of law guaranteed by the fifth amendment of the Constitution.

Mr. PEREZ. That is *Bolling v. Sharp*, which was handed down, I think—

Mr. FOLEY. The exact same day.

Mr. PEREZ. Right after the Brown decision.

Mr. FOLEY. It was the exact same day, sir.

Mr. PEREZ. Yes, sir; the same day. Now if you will read the Brown decision, sir, after the Court specifically based its decision on psychological and sociological writings, later on in the decision the Court said, "Therefore it is a violation of the fourth amendment."

Mr. FOLEY. This is the fifth amendment, Judge—due process.

Mr. PEREZ. The fifth amendment. And at the same time the Court itself was violating the fifth amendment by accepting as evidence that which for the first time was appended to a NAACP brief in the U.S. Supreme Court. These very books referred to in footnote 11 were never submitted in the trial of the case on the merits.

I think I can read to you what the Court said in previous cases about a decision being rendered on evidence not submitted in the trial of the case. Let me give you that citation, if you please. Those were the cases of *United States v. Abilene*, 265 U.S. 274; *Ohio Bell Telephone Company v. Public Utilities Commission*, 301 U.S. 292; *Scandlers v. Shaw*, 244 U.S. 317, and let me quote from those decisions.

The very use of such authority as evidence without opportunity to examine, explain or rebut was held to be a denial of due process of law in those three cases I have cited by the U.S. Supreme Court, which used it to reject jurisprudence and to amend the Constitution in 1954. The same Court, through Justices Brandeis, Cardozo, and Holmes, three very liberal judges, had held that nothing can be treated as evidence which has not been introduced as such, and that to decide a case on any evidence not of record constituted a denial of the fundamentals of a trial, and such would not be the fair hearing essential to due process, but instead would be condemnation without trial.

So measured from any legal angle, the Brown decision was not based on an interpretation of any provision of the Constitution whether original or any of the amendments or any act of Congress.

Mr. WILLIS. Judge, may I ask you this question: Proceeding to the consideration of the one provision of the specific bill before us—I don't have the language, but with reference to the sections imposed or proposed to be imposed for interference with a court order and administration of justice and so on, can you see any reason why Con-

gress should pass a law to make it an offense or make it a wrong to violate a court order in one set of circumstances; namely, civil rights, and not apply it with reference to all laws?

Mr. PEREZ. Why certainly not, because I say that it is selective and it is discriminatory. Why should Congress entertain a proposal to enact legislation to discriminate in one set of circumstances and not have the law apply generally when as a matter of fact the law now in existence should be sufficient and it does apply in all cases and in all circumstances and it prohibits any interference or obstruction of the due administration of justice.

Mr. WILLIS. But in the bill itself, the bill selects, on page 2—do you have a copy of H.R. 4457?

Mr. PEREZ. I thought I had a copy here.

Mr. WILLIS. It reads this way: "corruptly or by threat of force, or by any other means," in so many words "with due exercise or rights and the performance of duties under any order or judgment or decree of the U.S. Court, which," and then it selects three areas.

Mr. PEREZ. Yes, sir.

Mr. WILLIS. Now don't you think if any legislation should be passed that this should apply across the board? Why select?

Mr. PEREZ. Absolutely. This would be considered as class legislation, as discriminatory.

Mr. PEET. Mr. Chairman, may I interrupt? Mr. McCulloch, who introduced these bills, has said in these hearings he would be willing to accept an amendment along the lines you suggest.

Mr. FOLEY. For the record, Judge, the question was propounded by Mr. McCulloch as to whether or not there was any petition filed for a rehearing in any of the five cases that came down in May of 1954.

Mr. PEREZ. I would venture that there was, but I cannot recall that there was.

Mr. FOLEY. We have just checked with the clerk.

Mr. PEREZ. There was not?

Mr. FOLEY. Not one petition.

Mr. PEREZ. I say that I guess they thought it was hopeless and they let it go at that.

Mr. FOLEY. That is just for the record.

Mr. PEREZ. Yes. I say I couldn't recall that there was and I wouldn't venture to say that there was.

The CHAIRMAN. The decision was unanimous, was it not?

Mr. PEREZ. Oh, yes. Of course we can't look behind the record and the decisions. The decision was held up until it could be unanimous. That was the information that leaked out.

Mr. WILLIS. May I ask another question with reference to the pending bills? Have you thought about how far Congress can go in the field of elections? Does this bill clash in your opinion—

Mr. PEREZ. Oh, it certainly does.

Mr. WILLIS. With the constitutional provisions with reference to the power of Congress to legislate in the limited areas of elections?

Mr. PEREZ. Oh; yes, sir.

Mr. WILLIS. I will tell you why I asked you that. We will have to study your testimony and the testimony of other good lawyers and I am sure the chairman is just as anxious as I am to have your thoughts on that specific point.

Mr. PEREZ. The only power granted to Congress to legislate on the subject of elections, as I recall, will be found in article I, section 4, in the 12th amendment and in the 17th amendment.

The CHAIRMAN. Doesn't the Congress have some power concerning the election of Members of Congress?

Mr. PEREZ. That comes under article I, section 4, under which first the State legislatures are given authority to legislate as to the time and the place and the manner of holding elections. Congress may alter State legislative regulations as to the time and manner of holding those elections.

Mr. WILLIS. Now let me ask you this: We are familiar with that constitutional provision.

Mr. PEREZ. Yes, sir. That was covered in Mr. Bloch's statement.

Mr. WILLIS. I don't know the depth or the breadth, but to your knowledge have we exercised through legislation whatever limited power Congress has on that subject up to now? Can you enlighten me, counsel? Have we ever done that?

Mr. FOLEY. Yes, sir; in this area, Judge. Prior to the reapportionment, Automatic Reapportionment Act of 1929, for several years we had a statute on the books that described the way the congressional districts should be constituted. In fact, there was a case that went before the Supreme Court and the Court ruled it was a political question and they wouldn't pass upon it and said, "Moreover, you have repealed the statute in question by the Automatic Reapportionment Act of 1929."

Mr. WILLIS. Let me ask counsel this question, or anybody sitting here: Is there a law on the books now with reference to that subject?

Mr. FOLEY. Yes. The Automatic Reapportionment Act says this in the law today, that when a State is reapportioned under the automatic reapportionment law, we decide what your population is, based upon the census. The Clerk of the House reports to the Governor. Now if your State has lost Congressmen and you have failed to redistrict, then they must run at large.

Mr. WILLIS. Then my next question is this, and I invite anyone to answer it: The reference that counsel made has nothing to do with these bills?

Mr. PEREZ. No, sir.

Mr. WILLIS. In other words, these are now law on the books by Congress, setting forth the time, the place and the manner of electors.

Mr. PEREZ. Well, the last would affect the manner of holding elections in default of an act by the State legislature. That is all.

Mr. WILLIS. But I come to what disturbs me. This bill makes it a criminal offense not to violate a Federal law, but to violate a State law. Can Congress do that?

Mr. PEREZ. No, sir. I think the U.S. Supreme Court—

Mr. WILLIS. Can a Federal law implement a State law and make it a crime to violate a State law? Have we ever done that before?

Mr. PEREZ. No, sir.

The CHAIRMAN. This is off the record.

(Discussion off the record.)

Mr. PEREZ. I say that the constitutional power of Congress, vested by article I, section 4 of the Constitution, as well as the 12th and 17th amendments, with reference to the election of Congressmen and presidential electors—first as to the election of Congressmen, Congress is given the power to legislate with regard to the time and manner of holding congressional elections. The 12th amendment vested in the State legislature exclusively the authority to provide for the appointment or election of presidential electors, as State officers, but neither of those constitutional provisions give the power to Congress to legislate on the subject of the registration of voters or on the custody or maintenance of State or local records pertaining to registration.

Now title III, under the guise or heading of Federal Election Records, would require State and local officers to keep and preserve under penalty of being guilty of a misdemeanor and subject to penalties if they did not keep their registration and election records for a period of 3 years and then they are required to turn them over to the Attorney General, with the threat of proceedings in the Federal courts for injunctive relief, with the aftermath of a threat of punishment by contempt if they didn't comply.

Now I say that those provisions are strictly beyond the power of Congress to legislate.

The CHAIRMAN. You may proceed.

Mr. PEREZ. In the case of United States against Cruikshank, reported in 92 U.S. 588, the U.S. Supreme Court had occasion to interpret the meaning and extent of the provisions of the 15th amendment with regard to voting rights, and held that the 15th amendment has invested the citizens of the United States with a new constitutional right which is exemption from discrimination in the exercise of elective franchise on account of race, color, or previous condition of servitude. From this it appears that the right of suffrage is not a necessary attribute of national citizenship, but that exemption from discrimination in the exercise of that right on account of race is * * *. The right to vote in the States comes from the States, but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by the Constitution of the United States; that is, the right to vote, but the last, against discrimination, has been.

Mr. FOLEY. Judge, do you think that jibes with the language of the Court in the Classic case?

Mr. PEREZ. The Classic case, of course, that is a political decision, if I may say so, because it was directly contrary to the Newberry case which preceded it. If you will recall, Chief Justice Hughes abstained, and allowed the decision to be rendered by a 4 to 3 decision, I believe. It was about the time when this question of race was being brought up and was gaining influence in national politics and the Republicans on one side and the Democrats on the other were vying with each other.

Mr. FOLEY. How about *Terry v. Tideman* in 1952?

Mr. PEREZ. Of course it was even worse then. It had reached the extent at that time, and of course we can't overlook the fact that politics sometimes affect Supreme Court decisions. I have seen where Congress has found it necessary to enact legislation to override political decisions of the Supreme Court.

Now there is nothing sacrosanct about a decision unless it is based on law, or an interpretation of the Constitution, but not where it is, in so many words, an application of writings on psychology and sociology. How can we who are dedicated to the support of the Constitution subscribe to such a decision and stand by and see Congress enact legislation to make that type decision the supreme law of the land, with penalties for those who would not recognize and bow before it. I can't subscribe to it.

The CHAIRMAN. This is off the record.

(Discussion off the record).

The CHAIRMAN. On the record now.

Mr. WILLIS. Well, I am seriously concerned, and I will have to do some more research and I invite the whole committee—there is no secret about it—to shed some light as to how far can we go at the Federal level with reference to elections, impounding election returns and so on under the constitutional provisions, reserving to Congress the power within the limited area at the time and place and manner of election, particularly, as you say, when that has to do with, at the present time, the implementation of State laws on the subject and to me there are constitutional questions presented with which we have to occupy ourselves. The bill is going to find itself right smack in the Federal courts.

Mr. PEREZ. Mr. Willis, I would say unhesitatingly that under the power—

Mr. WILLIS. And I will repeat, my expression has nothing to do with the right to vote. I am for everybody voting. I am talking about the constitutional authority for regulation at the Federal level.

Mr. PEREZ. That is all that I want to talk about, that is the power of Congress under the Constitution because after all when you are considering legislation, that should be your guiding light as to whether the Congress has the power delegated to it by the constitution.

The CHAIRMAN. It would be better if the States, all of the States would give the colored people the right to vote. Then we wouldn't have this question arising.

Mr. PEREZ. I say, Mr. Chairman, that State laws do not discriminate against the colored people and I don't see any provision in this bill that is directed against State law; it is directed against the individual, it is directed against the private citizens, it is directed against possibly State and local election officials.

Mr. WILLIS. When the 14th amendment refers to—

Mr. PEREZ. Let me add, Mr. Chairman, there isn't any provision in any of these bills that I have seen that would change State legislative provision with regard to the time and manner of holding elections, is there?

Well, then, the question asked, which was put to me by Congressman Willis: How far can Congress go in enacting legislation under its con-

stitutional authority to legislate to change State regulations with regard to the time and manner of holding elections, and there is nothing in any of these bills or proposed legislation touching on that subject at all. So I would say that of course if Congress is not satisfied with our Governor changing elections in Louisiana on a Saturday, when it is unpopular, and everybody wants to go back to it Tuesday, Congress could say hold the election on a Tuesday or put it back in September instead of July—that is, as to primaries. Congress could make any regulations it sees fit as to the manner of holding elections to protect the rights of citizens and their full opportunity of voting. Congress, through any of its committees with subpoena powers, could subpoena all of the election returns involved in any congressional or senatorial elections where there was a contest. I don't know how much further Congress could go. Certainly Congress has no right to interfere with the province of State legislatures to provide for registration or voting rights. As I have just read from *United States v. Cruikshank*, the right to vote comes from the States and not from the Federal Government.

And let me read from another case, another famous case, the Slaughter House case reported in 1873, 83 U.S. 895. There the Court had occasion to review the provisions of the 14th amendment which prohibited the States from discriminating on account of race or color or previous condition of servitude, but the Court held that it wasn't the purpose of the 14th amendment to transfer the security and potential of all of the civil rights from the States to the Federal Government. And where it is declared that Congress shall have the power to enforce that article, it was not intended to bring within the power of Congress the entire domain of civil rights heretofore belonging exclusively to the States.

The CHAIRMAN. Mr. Perez, counsel just handed me a copy of Title 18 of the U.S. Code, chapter 28, entitled "Elections and Political Activities."

Mr. PEREZ. Is that the Hatch Act?

The CHAIRMAN. "Elections and Political Activities" is the title.

Mr. PEREZ. I thought it might be the Hatch Act.

Mr. FOLEY. Part of the Hatch Act. It is in title 21.

The CHAIRMAN. They cover a wide range of subjects over which Congress has legislated. For example, troops, interference by armed forces, intimidation of voters, interference by administrative employees at Federal, State, or territorial government, polling of armed forces, expenditures to influence voting, coercion by means of relief appropriations.

Mr. PEREZ. All of those have to do with the manner of holding elections.

The CHAIRMAN. I am trying to indicate the breadth of view that has been taken by Congress concerning the word "manner." Let me go on further.

Mr. PEREZ. Yes, sir.

The CHAIRMAN. Coercion by means of relief appropriations, promise of employment by candidates, promise of employment or other benefits for political activity.

Mr. FOLEY. Right there, sir, and it was sustained just recently in the Supreme Court of the United States, in a Pennsylvania case——

Mr. PEREZ. That all has to do with the manner of holding elections to prohibit corruption in elections. Of course that is in the province of Congress.

The CHAIRMAN. Let me finish the balance of this. There are only a few more. Deprivation of employment or other benefit for political activity, solicitation of political contributions, fallacious solicitation, solicitation from persons on relief, disclosure of names of persons on relief, intimidation to secure political contributions, making political contributions, limitation on political contributions and purchases, maximum contribution and expenditures, contribution or expenditures by national banks, corporations or labor organizations, contributions. That is all.

Mr. PEREZ. Well, I would say that all of those matters have to do with the manner of holding elections, the protection of elections against fraud or corruption and certain activity by the Federal employees in elections and contributions for elections. That all goes to the point of the manner of holding elections, which strictly is within the delegated authority of Congress.

Mr. PEET. Mr. Perez, you just said it was within the power of Congress to prevent corruption in elections?

Mr. PEREZ. Yes, sir.

Mr. PEET. Is it within the power of Congress to prevent corruption with regard to registration for election?

Mr. PEREZ. No. Congress is given no authority to deal with registrations at all under the Constitution. I read you a moment ago from the Cruikshank case, that the right to vote comes from the States, and the 15th amendment only prohibits discrimination in that right to vote by the State.

Mr. PEET. Therefore, to your way of thinking, any corruption before the election is not punishable or preventable by the Congress?

Mr. PEREZ. The 14th amendment covers that because no one can be discriminated against because of his race, color, or previous condition of servitude, so that would be covered by the 14th amendment and the State laws would have to be carried out without discrimination uniformly, yes, sir, and State laws mean the execution of those State laws by any officer or agents of the States. That is covered by the 14th amendment.

Mr. FOLEY. At that point, referring back to the famous Texas primary, the so-called "white election," that is the distinction you would draw there in that case?

Mr. PEREZ. Yes, sir.

Mr. FOLEY. There was discrimination, but in a primary, but it was based upon the violation of the 14th amendment.

Mr. PEREZ. Yes, sir, because the Court held primaries in some States were equivalent to elections and therefore it meant election.

The CHAIRMAN. Then couldn't we pass a statute in pursuance of that white primary decision, implementing the amendment?

Mr. PEREZ. Well, Congress could go no further than prohibiting discrimination in registration on account of race or color. And the 14th amendment does that.

Mr. FOLEY. How about the 15th amendment?

Mr. PEREZ. It has been enforced in that light.

Mr. FOLEY. The same thing in the 15th amendment?

Mr. PEREZ. Yes, the 15th amendment, as to voting, covers that and the 14th amendment generally as to discrimination under State law. But I think these provisions which go beyond a regulation of time and manner of holding elections would be covered by what the Court said in the Slaughter House cases, when, as in the case before you, these consequences are so serious, so far-reaching and pervading, so great a departure from the structure and spirit of our institutions when the effect is to debase and degrade the State governments by subjecting them to the control of Congress in the exercise of powers heretofore universally conceded to them of the most ordinary and fundamental character when in fact it radically changes the whole theory of the relations of the State and Federal Governments to each other and of both of these governments to the people. The argument has a force that is irresistible in the absence of language which expresses such a purpose too clearly to admit of doubt.

The CHAIRMAN. Mr. Perez, how much more time do you want to use? We may get a rollcall very shortly.

Mr. PEREZ. I see it is 5 minutes of 12. I can conclude almost any time. I did want to say in passing as to title II, flight to avoid prosecution for destruction of educational or religious structures; I doubt if anyone would contend seriously that there is any more need for a law to protect educational or religious structures than there is to protect the private home of individuals, where fathers and mothers and their innocent children may be peacefully at sleep at night and their homes are bombed and set fire to.

Mr. FOLEY. That is the law right now, Judge.

Mr. PEREZ. What is?

Mr. FOLEY. If you flee where arson is involved, it is punishable by existing law.

Mr. PEREZ. I am talking about title II of 4457. That would only cover flight to avoid prosecution or giving testimony in prosecution for arson or bombing of structures, educational and religious structures.

Mr. FOLEY. If arson is a felony in Louisiana as of this moment and it is a private home and that crime is committed and the man flees in interstate commerce, the present Federal law covers him.

Mr. PEREZ. Then why would the present Federal law—if it covers it, if it covers arson, then certainly a religious institution or educational structure would not be excepted from the present law.

Mr. PEET. Mr. Perez, Mr. McCulloch who sponsored that bill, H.R. 4457, which you are referring to, has indicated a willingness to accept amendments which are broad enough to include these other matters.

Mr. PEREZ. I think we can all go along with that. What we resent, and what we reject, is having the accusatory finger pointed at the South all the time because there was some alleged bombing of a synagogue and possibly one or two schools. We are a hundred percent, of course, for a suggestion that it should be made of general application, but not to attempt by an act of Congress to crucify, to condemn, to convict the southern people of that because of one or two isolated instances. I think if we would check the news articles for the past year or two we would find similar atrocities in much greater numbers in other parts of the country.

The CHAIRMAN. There was a time when I would say they weren't isolated. They were cropping up in rather alarming number, these bombings. I think it was last year.

Mr. PEREZ. I have heard of only two or three.

The CHAIRMAN. There are more than that. We had the record and there were quite a number.

Mr. PEREZ. I have heard of more in the Detroit area where in industrial disputes there have been more bombings and more atrocities and acts of violence—many, many times more.

The CHAIRMAN. This would apply to Detroit or any place else. That law would be applicable all over the country.

Mr. PEREZ. Yes, sir, Mr. Chairman. I say we could go along with the law, without the accusatory finger pointed to the South, if it were made to apply to homes and factories, as well as religious and educational institutions, and I understand the author is amenable to that reasoning.

Now title V provides for a commission on equal job opportunity under Government contracts. I am not too familiar with the subject, but my only comment on that would be this: That it would be difficult at this late date to justify practices which were initiated by the President, without congressional authority, during the New Deal many years because if the President had such executive authority under the Constitution, for Congress to legislate on the subject none might be considered an encroachment on the executive authority. I throw that out as a suggestion. I am not too sure, but I believe that the President, back in the New Deal days—

Mr. FOLEY. 1941, Judge.

Mr. PEREZ. Yes, sir. So if he did it without act of Congress, for Congress to legislate now on the subject might be considered an encroachment on the executive authority, if he had such authority under the Constitution.

And on title VI, I say as to education of children of members of the Armed Forces, where it is proposed to have Congress appropriate funds for the building of school facilities in the event the children of the members of the Armed Forces don't have educational facilities nearby or they may be denied admission to local schools, I throw out the thought that if Congress is all bent on enacting punitive legislation to attempt to dignify the U.S. Supreme Court sociological decision for forced racial integration, I say that Congress then should

provide the school facilities for its hapless citizens wherever they may be who may be compelled to accept racial integration for their school-children under the coercive power of the Federal Government.

In passing may I make this statement for the record: I want to quote Charles Wallace Collins, a great patriot and historian, who said that never in the history of nations has any government ever attempted to force racial integration upon an unwilling people by use of its coercive power and to think that we are facing such a tragedy at this late date in the great Republic of the United States under our constitutional government is tragic.

As to title VII, Mr. Chairman, on the subject of grants to assist State and local educational agencies to effectuate desegregation, I would say I don't know how much gold there is left in Fort Knox, but there isn't enough gold in Fort Knox to pay off our good American people south of the Mason-Dixon line to surround their little girls and their children to forced racial integration. We know that this whole drive for racial integration is political, and we don't consider that it is done in the interest of education for the Negro children. The drive is for social equality; it isn't for educational opportunities. If we parents and grandparents of our little children should ever surrender, we would be confronted with an awesome spectacle. Beginning at the age of 6, little white and Negro children, boys and girls, would be forced into continuous physical contact with each other in public schools and public school activity. They would study together, recite together, sing together, play together, sit together, talk together, and dance together. They would eat lunch together, from food provided by the Federal Government. In this manner they would go through the grade school, through high school, through college and through university. The social theory behind this procedure is that this close and intimate association during the entire formative period of their lives would, in itself, produce integration, or, in other words, amalgamation of the races. Fantastic as it may appear, the social aim is a Negroid South, to which we will never surrender.

Mr. Chairman, in closing, I am sure that we all realize the turmoil and strife and bitterness that has been engendered from the time President Harry Truman delivered his message to the Congress in 1947, I believe it was, on the subject of civil rights. I recall the revulsion of feelings throughout the South, especially, and I believe throughout the land. One thing that struck me particularly was when I was in Washington about a year later and I read a report by Director Hoover of the FBI. He said that rapes had increased by over 35 percent in 1 year. I don't know that you people understand the real Negro, his mental condition. He is not too far removed from the jungles in his morals, and make him believe that he is the equal of the whites, he wants that white woman, and you know what happens.

Now I know that the action of certain hooded men in Mississippi recently is decried and condemned and I decry and condemn it, too. On the other hand, let us realize what the situation is. There have been rapes in the South and the law has been allowed to follow its course and the cases have come up to the U.S. Supreme Court and

with very few exceptions, if any, the U.S. Supreme Court has set free the rapists. So what is the attitude of the southern gentleman to protect his wife and daughter?

The CHAIRMAN. Mr. Perez, of course that is rather strong language which you say—

Mr. PEREZ. It is practical, if the chairman pleases.

The CHAIRMAN. Of course you will forgive my making a counter-statement. I can't conceive of your being within the realm of reason when you say the Negro is not far removed from the jungle.

Mr. PEREZ. Only a couple generations.

The CHAIRMAN. That is a pretty strong statement and I would say if the Negro were accorded appropriate education and permitted to live in a less tumultuous environment, with better and more refined conditions and had some degree of equality which preserves his individual dignity, the most precious of human emotions, I think then the Negro would be not too unlike the white man and these things that you speak of would never happen. I think the lack of all of these good things has caused much of the evil against which you envision, but a good deal of that evil may be brought about by your own people who refuse to accord the Negro by better education and better conditions out of which would come better conditions for the Negroes. You can't blame him for results which stem from the very conditions which you write about.

Mr. PEREZ. Well, Mr. Chairman, I beg leave to differ because I am sure that the facts of life will prove differently. The Negro has made greater strides in the South in business and industry, in education. There are more Negroes employed as teachers and college professors and college presidents in the South than there are in all of the other States of the Union combined. I believe that statement is an accurate statement.

As the Supreme Court found in the South Carolina and Virginia cases, all of the tangible factors were equal. The facilities were equal and the Court didn't go off on the question of discrimination against the Negro in educational facilities, and we are not here today because of any inequality in educational facilities. We do know that turmoil and strife and confusion leading to national disunity is resulting from this drive to force the Negro upon the unwilling whites in the South. We know that the objective, that the aim ultimately is not better education for the Negro, but is social equality and marriage and the bearing of mongrel children.

Here is a full page—one of two pages—editorial by W. E. B. Du-Bois, a founder of the NAACP. What does he say?

Finally there comes the question of social equality, which, despite efforts on the part of thinkers, white and black, is after all the main and fundamental problem of race in the United States. Unless a human being is going to have all human rights, including not only work, but friendship, and if mutually desired, marriage and children, unless these avenues are open and free, there can be no real equality and no cultural integration.

God save America from a mongrelized race. Thank you, Mr. Chairman and gentlemen of the committee.

The CHAIRMAN. Thank you, Mr. Perez. You have been very helpful and I think that this discussion we had this morning has been very helpful. It is only in the calm and reasoning attitude that we can come to some degree of truth and for that reason we would like you to come again and we want to call on you if we need you.

Mr. PEREZ. Thank you very much, Mr. Chairman.

The CHAIRMAN. We will adjourn the meeting now until 10 a.m. tomorrow morning.

(Whereupon, at 12:10 p.m., the committee recessed, to reconvene at 10 a.m., Thursday, April 30, 1959.)

CIVIL RIGHTS

THURSDAY, APRIL 30, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE No. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:10 a.m. in room 346, Old House Office Building, Hon. Emanuel Celler presiding.

Present: Representatives Celler (chairman), Rogers, and Miller.

Also present: Edwin E. Willis, U.S. Representative from the Third District of Louisiana; William R. Foley, general counsel of the subcommittee; and Richard C. Peet, associate counsel.

The CHAIRMAN. The committee will come to order.

We have a distinguished group of very eminent representatives here this morning. First on the list is the Honorable Kenneth A. Roberts, Representative from Alabama, who we are all glad to listen to.

Mr. Roberts.

STATEMENT OF HON. KENNETH A. ROBERTS, A REPRESENTATIVE IN CONGRESS FROM THE FOURTH DISTRICT OF ALABAMA

Mr. ROBERTS. Mr. Chairman, of course you know that I am opposed to these bills. That has been my position since I have been in the Congress.

My committee is in executive session this morning on a very important matter and with the permission of the Chair I would like to file my statement for the record, and also the statement of the Honorable Albert Rains of Alabama in opposition to these bills.

The CHAIRMAN. We will be glad to accept them.

Mr. ROBERTS. Thank you, Mr. Chairman.

(The statements are as follows:)

STATEMENT OF HON. KENNETH A. ROBERTS, A REPRESENTATIVE IN CONGRESS FROM THE FOURTH DISTRICT OF ALABAMA

Mr. Chairman, it is my understanding that there are pending before your committee several bills falling into the civil rights category. I appreciate your giving me the opportunity of expressing my views on this subject.

My position, I think is well known.

When I offered myself to the people of the Fourth Congressional District of Alabama as their Representative to this House in 1950, I expressed my opposition to any breakdown in segregation and to the institution of the FEPC law.

Since coming to Congress, I have time and again fought against moves to enact civil rights legislation and I was early in protesting the inclination of the Supreme Court to usurp the rights of the States and to force upon the people of the South decrees which are repugnant to us.

I know some of you will recall that I have appeared before your committee numerous times in an attempt to prevent the enactment of any of the iniquitous civil rights measures. I attempted, in the 85th Congress, to point out from social and legal viewpoints the error of enactment of the civil rights bill of that Congress.

Of course, I was sorely disappointed when the majority of the Members of Congress yielded to those politicians who clamored for that legislation in their frantic effort to gain the support of minority groups by making the South their whipping boy.

Enactment of that bill was a tragic mistake. Developments since the passage of that law have helped to substantiate arguments of those of us who opposed that law.

Newspaper reports are that four members of the Civil Rights Commission, which was created by that legislation, now say that they want to give up their positions. The chairman has stated that many of the questions referred to that Commission simply have no right answers. There is evident discouragement and confusion concerning the job of the expensively endowed Civil Rights Commission.

In my own State of Alabama, we have seen the arrogant meddling of the Civil Rights Commission, as it harassed our citizens and officials in an attempt to find some grain of trouble to pounce upon.

I cannot see that the Commission has served any good purpose. Certainly it has provided no new rights and granted no new privilege. It is my personal feeling that this useless Commission should be allowed to die, and any legislation to perpetuate it should be defeated.

A Federal district judge in Georgia recently dismissed the first suit filed under the Civil Rights Act of the 85th Congress, and ruled that one section of that act is unconstitutional. This judge said that the act's attempt to give the Attorney General the right to issue injunctions against private or individual actions impinges upon the rights of the States to protect the rights of one citizen against wrongful practice of another person.

These two developments are among those which seem to me to be highly significant. They are some indications of the result of the 85th Congress' hasty action in enacting a civil rights bill in 1957. It is important that we measure the temper of the times and the end result of that bill before we attempt to pursue additional legislative action in this field.

By enactment of that bill 2 years ago, Congress stirred the coals of mistrust and conflict which have smoldered since the Supreme Court's unprecedented and unwarranted forced integration ruling of 1954. The action on that bill threatened more seriously the rights of the States to govern themselves; it took the Government into fields in which it never before had entered; it poured out money at the national level to invade peace at the local level. In short, that civil rights bill of 1957 was another long step down the road toward centralized Federal tyranny. It is unthinkable to me that Congress would want again to consider civil rights legislation to compound the problems already created by its previous action.

I mentioned the Supreme Court, and I think we can view very clearly some of the signposts of approaching centralization of powers by tracing the course of the Court during recent years. For it has shown an amazing lack of concern for the rights of citizens, of the States, and even of the Congress.

Judicial precedent was tossed aside when the Supreme Court handed down its integration decree of 1954. Instead of basing its decision on a formidable array of legal cases and court rulings, the Supreme Court relied on sociological and psychological writings of people who have little or no interest in American government. It flagrantly betrayed the concept of government envisioned by our Founding Fathers who said that the States, under protection of the Constitution, have the right to govern their own affairs.

The Court's integration rulings seek to bring about sociological changes through usurpation of power. The legislation propounded to implement this abuse of public trust seeks to legislate morals. None but the most naive could suggest that a people will respect decrees which are in direct contradiction to their fundamental beliefs. Attempts to coerce conformity and to enforce obedience to a decision which does not have the support of the people directly affected are highly dangerous. We have seen freedom destroyed in other nations by these tactics; and destruction follows as the night follows the day.

The South has uniquely lived with the problem of accommodating a large minority group, distinct in race and culture, with a different origin and with different customs and practices. The South has done what no other nation or section of a nation ever has been able to accomplish satisfactorily. It has devised a syseem wherein two races of mankind can live in peace and goodwill, through good times and bad, with mutual respect. The southern solution of separate-but-equal opportunities has developed steadily since Reconstruction days, and through it definite progress has been made by each race working out its own destiny within its own people, allowing at the same time each race to preserve its own racial integrity. It has been a slow process, but it has moved ahead unfalteringly. It is a fair process, and it is the only workable process. To abandon it, as the Supreme Court and some now say we must, is to invite only confusion, despair, violence and—perhaps worst of all—a seething hatred.

Forced equality in the public schools, as envisioned by the Supreme Court and in some of the legislation pending before this committee, cannot help but encourage greater tensions, turmoil, and degradation.

Mr. Chairman, since the 1954 decision was handed down, we have begun to witness some of the turmoil that accompanies attempts to enforce moral and sociological changes repugnant to local opinion. We have seen radical elements flourish, schools wrecked by explosives, Federal troops with bayonets invading a campus, public school buildings shut down, and a serious cleavage in harmonious relationships of the people.

I urge most strongly that this committee reject all the various civil rights bills now under consideration. By doing so, this committee can serve a great purpose in helping to curb the emotional side-effects of forced integration which are rending the peaceful harmony of America and, particularly, the South. I urge you through your action to take this sociological problem out of the hands of a judicial oligarchy and return it to its proper place with the people concerned.

STATEMENT OF HON. ALBERT RAINS, OF ALABAMA, ON H.R. 3147, H.R. 3148, AND H.R. 4457

Mr. Chairman: I wish to call the attention of this committee, and of the American people, to title 1 of H.R. 3147 which is in effect a bill to legalize the Supreme Court's decisions on integration in our public school systems.

Title 1 of this bill now before you pledges the Congress to carry out laws made by the Supreme Court. In so doing, this bill would repudiate our Constitutional concept of separation of powers.

There may be some doubt on some fronts as to the intent and scope of the 14th amendment but no one can challenge articles 1, 2, and 3 of the U.S. Constitution. They tell us quite simply that Congress shall make the laws, the Executive shall carry them out, and the Supreme Court shall interpret them.

But today, H.R. 3147 would repudiate all of this and it should thus be considered as a measure to repeal the first three articles of the Constitution. It is asking Congress to approve laws made by the Supreme Court, and, in the words of one of its sponsors, title 1 would have Congress accept full responsibility for seeing that those decisions are carried out everywhere in the Nation.

Is it that Congress is ready to go all the way and formally delegate its legislative powers to the Supreme Court? And are we in Congress ready to assume the executive powers of seeing that laws are carried out?

A most ardent sponsor of this bill, Senator Humphrey, has said:

"Title 1 of the bill contains findings supporting the Supreme Court's decisions as expressing the moral ideals of the Nation and pledges the Congress to carry out those decisions by all due and reasonable means. This title will make it clear to the Nation and to the world that Congress stands four-square behind the Supreme Court's desegregation decisions, and accepts full responsibility for seeing that those decisions are carried out everywhere in the Nation."

I have quoted from the Congressional Record of March 18, 1959, page 3992.

I ask you to consider, first, that never before in our legislative history has Congress been called on to approve laws made by the Court, and second, if it is true that the Court acted on school integration within its jurisdiction, and within the law, why is congressional support for the decision necessary?

The very fact that title 1 is in this bill is an admission that the Court needs support on the school integration decree. Have we ever been called on before to record that we stand "four square" behind the Supreme Court?

May I point out to you gentlemen, it would indeed be most difficult to obtain full compliance with such a law, even if Congress made it. You may recall that at least 11 of our States, including Alaska, were admitted to the Union with the explicit provision that their respective schools and colleges "shall forever remain under the exclusive control of the State or its governmental subdivisions."

The States which were admitted earlier, never in their wildest dreams envisioned that a day would come when the Supreme Court would tell them how to run their schools. But the last dozen of our States to enter the Union evidently foresaw, and quite wisely, that Court action might one day overturn their sovereign school systems and thus they demanded this safeguard as a condition for admission.

Titles II and III of H.R. 3147 represent a race baiting type of point four for the Southern States. If we integrate and overturn long established practices and traditions, abandon our hundreds of modern Negro schools, bring about community chaos and wreck Southern education for centuries, we can get a little "technical assistance" and I am quoting the language of the bill.

Some proponents of this bill call this offer "a helpful proposal." I call it an unjust and unconstitutional proposal. The taxpayers of Alabama, who have sacrificed their white school building programs for years now in order to provide modern classrooms for our colored population and pay our colored teachers equally if not more than their white counterparts, are not interested in such a "helpful" proposition.

Titles 5, 6, and 7 of what has been played up as "The Number One Civil Rights Bill of the Year" bestow additional powers on the Attorney General while usurping more powers of the once sovereign States.

The next effect of the principal civil rights bills now before you—I am referring in particular to H.R. 3147, H.R. 3148 and H.R. 4457—is just this: they all delegate undue and dangerous powers to the judicial arm of the Federal Government, at the expense of the States, the Congress, and the citizens of this country.

I am reminded that a scant hundred years ago Abraham Lincoln attacked the Supreme Court across this country as a result of the decision in the Dred Scott case. Before audiences all over Illinois, Mr. Lincoln cited with approval some remarks Thomas Jefferson had made in 1820, in which Jefferson declared that if the judges of the Supreme Court are to be considered as "the ultimate arbiters of all constitutional questions" this could be "a very dangerous doctrine and indeed one which would place us under the despotism of an oligarchy."

Ridiculing the judgment of the Court and of individual justices in regard to the Dred Scott case, Abraham Lincoln said, "We propose so resisting it as to have it reversed if we can and a new judicial rule established on this subject."

Gentlemen, those words were Lincoln's, but they are the sentiments of the Southern States today, as we view with mounting concern the continued efforts to strip our States of their Constitutional rights and powers and to concentrate more and more powers in the judiciary.

TESTIMONY OF CONGRESSMAN JAMIE L. WHITTEN

The CHAIRMAN. Is Representative Jamie Whitten here?

Mr. WHITTEN. Yes, sir.

Mr. Chairman, I appreciate very much this opportunity to appear before your committee in opposition to the pending bills.

May I say that I shall not give a whole lot of time to discussing the detailed provisions of the various bills, but shall direct my comments to the general purposes. It is my observation that behind this drive for legislation in this so-called civil rights field is an appeal to various minority groups in this country for political gain. I truly believe it is endangering our Nation.

I served in the Mississippi Legislature, then 8½ years as district attorney. This, plus my service here, leads me to have at least a very

considerable degree of knowledge of conditions in the South. I think it is generally agreed that the authors of these bills, and certainly the proponents of most of the bills, point to the South as the area for which they claim this legislation is needed.

I believe anyone who has any real knowledge of southern conditions cannot help but know that conditions between the races have been much better in the South than in any other section of the United States. It is true that we have had some incidents throughout the years; but judged by numbers, we have had many, many less than any other section of the country, though those we have had have been greatly publicized.

It is true that on occasion we have had some people take the law in their hands, which itself is in violation of State law; but in the South, those occasions are very infrequent, to say the least, and usually are tied in with the serious crimes of murder or rape. In other sections of the country it is usually when some racketeer moves in on another racketeer or other situations of that sort. But numerically, percentage-wise or any other way you might look at it, the two races have gotten along much more peacefully in the South, with far fewer instances of trouble than other sections. Unfortunately, any instance in the South is played up in the press. In other areas the same thing is largely ignored by newspapers and others.

The relationship between the races in the South, where they have mutual respect and love for each other, has been much better than in the cities of this country in which it has been my privilege to visit in the years that I have been in the Congress.

With regard to this proposed legislation, the question that should be uppermost in the minds of this committee, which I notice does not have a representative from the South, is the question: Will this legislation help the situation?

Mr. Chairman, I am here to tell you that from my experience and observation these bills, if enacted into law, certainly will not help the situation but will further aggravate it. We have those here who have believed in the Supreme Court decisions and in efforts by the Congress to push these two groups together, in the schools, in transportation, and everywhere else, by act of law or by judicial fiat; but we have seen, and I know they have seen, the situation get worse, not better. We have seen the occurrences such as happened recently in Richmond, Va. We hear of them in other areas, many of them in northern areas.

Recently I visited with a friend at the University of Mississippi. He served as dean, and has been active with the YMCA through the years. He told me that prior to the original Supreme Court decision against segregation, and other actions that have followed, the Negroes in that area had been among his best friends; but that now, by reason of the actions of the Federal Government through the courts and through the Congress there was a cleavage, and now he could not afford to maintain the close relationship that he had formerly enjoyed with these fine colored citizens, and that they in turn had the same feeling that they had been separated and had to remain separated; that instead of these actions by the Court bringing about a closer comradeship or an integrated situation, you had put the white

and Negro people into two different camps. That is what has happened in almost every community in the South.

I have two Negro colleges in my district. I truly believe I have had the warm love and respect of the Negro citizens, if I am any judge, through the years I have been in public office, which is since I was 21 years old. Today the situation is far worse than it has ever been previously in my lifetime, because through these actions and efforts to dictate from the Federal level what must be done at the local level, you have forced the people into separate groups. You have created a situation which leads to suspicion and in the opinion of members of both races to the necessity for staying apart.

Now with regard to these particular bills you have here, if they become the law, and I am certain that due to the political influence of these various racial groups throughout the country that you do have the votes on this subcommittee, perhaps in the House of Representatives also, and perhaps in the Senate; but the minute you pass these acts, the result will be not only a greater cleavage between the races, but in the end the Federal Government will provide facilities for our Negro citizens and a bigger and bigger percentage of the white citizens of this country will have to provide for their own education and their own various facilities.

Mr. Chairman, I don't know whether you go out in the city of Washington, but a few years ago you set out to integrate the various swimming pools and other recreational facilities here in Washington. Instead of integrated facilities which presumably you provided, what you actually did was to drive the white people away from those facilities—90 percent of them, at least.

You actually end up having what amounts to virtually segregated pools and various other recreation facilities now, but for Negroes only.

Now, I have many people here in Congress and other folks who want to know why we in the South don't do as you do. If we don't like the integration, why don't we move out to where we don't have any Negro citizens, they ask. That is what the people do in Washington; if you study the population trend, you can see they do. In the first place, we like the Negro people better than you do, and we don't care to move off and leave them.

Secondly, in my State 48 or 49 percent of the population is Negro. In my hometown I believe about 50 percent of the population is Negro.

Mr. Chairman, behind this drive for Federal legislation, as I see it, is a move to center in Washington absolute control of not only the politics of this country, but by action of the Supreme Court and of the Congress, you would center in Washington the control that in Russia is centered in Moscow.

Now it is true that you on this committee and others want to say the Court has spoken, therefore the Court's statements are the law of the land. I subscribe rather to the interpretation of Mr. David Lawrence, of the U.S. News & World Report: that these decisions are the law of the case and not the law of the land. I fall back on the expressions of many great Americans who in times past have said, "Of course you are entitled to differ with the Supreme Court in the hope we can bring the Court back to some commonsense actions."

Mr. Chairman, each and every election the leaders of both parties in the Congress increase their bid for this minority vote. I have seen it in the 17 years I have been in Congress. The bid gets higher and higher each and every election.

Mr. Chief Justice Warren, interviewed in 1954 before he went to the Supreme Court, said that as a Republican officeholder he was pledged to the Republican platform "to get rid of segregation wherever it reared its ugly head and to use all the power at his command." He was later named and confirmed as Chief Justice, after publishing that statement that he was pledged to use all the power at his command; and believe you me, he has used it.

Now the test again: Will these bills, if enacted into law, help the cause which you gentlemen espouse, or will they further inflame the situation? I don't think there is any question but that the record, since 1955, has shown that the relationship between the two races is deteriorating all over the land.

Now when I studied law, and in my experience as a lawyer and as a district attorney, it was my belief that basically, the individual, under the law has to handle himself in such a way as not to encroach upon the rights of the general public. In recent years we have seen this Supreme Court release criminals, patently guilty of serious crime, on a defenseless public because of some technicality, all in the name of protecting their individual rights; and in the same breath they were destroying the rights of the public which is entitled to protection from known murderers, rapists, and others who have been freed by decisions of the courts in recent years.

In my State we have a rather publicized case which is an example of this bad state of affairs—*The State of Mississippi vs. Goldsby*, a Negro man. Five years ago he shot and killed a Mrs. Nelms, a fine lady in one of the towns in my district. The Negro asked for curb service at an eating place. The owner, husband of the murdered woman, refused to give him curb service. The Negro pulled out his pistol and shot Mr. Nelms, then jumped out of the car and began pistol-whipping him. Mrs. Nelms, seeing what was happening, came out and was holding her hands up in the air begging for mercy for her husband when the Negro, Goldsby, turned and shot, killing her—leaving two minor children. This was 5 years ago. Goldsby was tried in the courts, and there appeared no question of the facts as to his guilt.

He was convicted; twice the case went to the Supreme Court. Each time that case was affirmed by the Court; yet each time the Chief Justice has stepped in and stayed the execution of the judgment of the Court. The people who surrendered this defendant to the courts and who went through the proper legal channels to bring about protection for the public see this defendant, 5 years later, apparently on the way to being freed on a defenseless public; for it is my understanding that the circuit court of appeals has, in effect, set aside the conviction and decreed that he be turned loose. This decision is now pending on appeal before the Supreme Court.

Now those of us in my State, and that means practically all of our people are law-abiding citizens, deplore the taking of the law into any individual's or any group's hands. I believe our record compares favorably with any section in our belief and in our confidence that things should proceed legally and through the courts. But when we

see the Supreme Court turning people loose as they have, it leads to the condition which prevails here in Washington, where, as you know, Mr. Chairman, it is not safe to be on the streets in some sections; and those sections, on occasion, have been right around our Nation's Capitol.

I have attended the last several conventions of the Democratic Party and have been rather active in my efforts to hold the two wings of the Democratic Party together, because I recognize the value of the two-party system. I recognize the weakness that France has had because of a constitution which lent itself to the multiple-party system, which in turn led to little governmental responsibility to the people. It led to the necessity for the recent new constitution and the calling back of General de Gaulle.

Mr. Chairman, just as sure as we are seated here now, this legislation and these Supreme Court decisions are driving the people of the South toward a third party. It is my belief that Southern States will go toward independent electors first, that after that the situation will lead to a demand by the people of the 10 or 11 Southern States, in order to save constitutional processes and in order to save this country, to demand that their representatives in Congress go so far as to withhold their votes to the point of determining which major party shall organize the Congress.

I would like to point out to you, Mr. Chairman, that in the present Congress the Republicans outside of the South number 146. Southern representatives in Congress number 106. Democrats outside the South, 184, in the House of Representatives. In the Senate the division is somewhat the same, with 22 Senators from Southern States. In each body it would take a number of Southern votes to organize. Now I know, Mr. Chairman, that you and other members of this committee think many Members in the Congress from the South won't go so far as to withhold votes in the organization of the Congress. Nor do you believe such Members are going to vote for independent electors—who meet a month after the national election to determine who is President.

Mr. Chairman, in the Little Rock District of Arkansas our good friend, Brooks Hays, who has the friendship of most Members of Congress, was defeated. When the line is drawn, in view of the actions by the Supreme Court and orders from the President, and now through these bills from the Congress, if the issue is drawn in every Southern district in the 10 or 11 Southern States, I am here to tell you that just about every Member of Congress and every Senator will either go along with this move or else he will have to run on the ticket that our good friend, Brooks Hays, ran on, and that represents the minority side in the South. It is my belief those who do not take a stand with their people at home will find the people making a change.

This is not a threat. It does represent my sincere analysis of the situation. May I repeat, I have worked in the last four Democratic conventions, making a sincere effort to prevent a split because I know the dangers which face a multiple party country. I am saying to you that through the type of legislation being considered here you are driving the Southern people to demanding that their representatives in the Congress meet politics with politics; and as long as they have 106 Members of the House of Representatives and 22 Senators, as

they have, both of our major parties are dependent upon a number of Southern representatives to organize the Congress. You are going to drive southern people to the point representatives of the major parties will have to form a coalition to organize the Congress or elect a President.

Now we come to this matter of independent electors, and I know that the members of this judiciary committee are thoroughly familiar with the law. There is nothing in the law which requires an elector to vote for the nominee of a particular party, or the representative of a particular party. It is my recollection that the Electoral College meets a month after the national election, in which the people vote, and if the people from the Southern States vote for the best citizens they have as their delegates to that Electoral College, and such delegates cast their votes as best they can for the protection of sound government, then you folks here and the major parties you represent are going to begin seeking—I don't care which party you happen to belong to—a means to get along with that group.

Time will tell whether I am right, but I have seen the progress made toward a separate South. The election in Little Rock is indicative of the power of southern people to require that their representative reflect their viewpoint, believe you me.

Now after this occurrence at Little Rock, with the pictures going out over the country of soldiers with bayonets, law enforcement problems have increased greatly in every city that I know about. Again, may I repeat, as the Supreme Court has stepped in from Washington and said what it says the Constitution means, rendering a strained interpretation, which amounts to a constitutional amendment, in effect, the Court has set itself up as a judicial dictatorship. My friends, the Supreme Court has not only said what the Constitution means, destroying all precedent, but the Court has reserved unto itself the right to say all over again what it is each Monday morning and each Tuesday and each Wednesday. They have rendered decisions which, in effect, provide that if these State laws are not carried out as the Court believes they should be, the Court reserves the right to later declare such laws unconstitutional.

France never had a weaker constitution than our Constitution, in the hands of a Court which reserves to itself the right to change its meaning day by day. Now the soundness of any country, of any country's government, is dependent upon having something dependable, some marker which remains steadfast, around which public opinion and popular will may ebb and flow. In our country, until 1955, it was the Constitution.

By way of simple illustration, land descriptions in this country go back to the starting point of the original survey, including description of the property on which this building is located. To move that marker would upset every land description tied to it. The Court, in effect, has moved the marker (precedent) so as to upset every, thought-to-be, legal decision in this country; and to make it worse, the Court has reserved the right to keep moving such marker (the Constitution) around to suit its fancy. The Court now claims unto itself this right and it has been able to claim it because it had the support of the executive department and no other court higher to which you could appeal. Today, my friends, you may hire the best lawyer in the United

States, and he can't tell you what the law is in certain fields, because the law depends upon how the issue strikes the Court on the day that it happens to hear the case.

Again, if you use this means of forcing and bringing about what you think is integration, you may make a few people sit in the same place, side by side; but you are driving the two races further and further apart, not only in the sections of the country where you think you are doing something to improve conditions, but throughout the Nation. You invite the very things which we so deplore, that is, the individual cases where some people, in violation of the law, have begun to once again take the law into their own hands because they believe that the courts won't protect the public. When such people believe the courts won't protect the public, it makes it that much harder on those of us who deplore such actions, who have always gone to the court, to hold them in check.

I am not speaking in a field in which I am inexperienced. For 8½ years I prosecuted cases in my State of Mississippi. In several cases I have asked the Governor to send out the National Guard to protect the defendant, where the facts were certainly such as to inflame the public. That is the attitude of all our public officials.

But when a man shoots a woman through the throat, kills her when she is holding up her hands begging for mercy, and 5 years later they find the Chief Justice of the Supreme Court, preventing such criminal from being punished, with the apparent outcome that he will be turned loose on the defenseless public, Mr. Chairman, there is the point where you are finding a breakdown of the law and a loss of respect for the courts. If you analyze our current situation, that is the reason you read of so many yokings, murders, rapes, and robberies, not only over the Nation, but right here in the city of Washington.

Mr. Chairman, you are considering bills which are not going to help. In the first place they won't work. In the second place, instead of bringing about an integrated feeling which we have always enjoyed in the South, you are just separating us. Someone has said the southerners love the Negroes, but do feel independent of them in in other ways. In the North you don't really care for the Negro, except for his votes. You say: "Why don't you move out where they don't live, like we do?"

Mr. Chairman, we like them better than that in my section of the country, and we have lived together and gotten along together. We have learned that we respect and admire and are friendlier if we have different public facilities for each.

When I get home to Mississippi, they ask me: "How do you like living in Washington under all the conditions that are there?" Mr. Chairman, I see more colored citizens in 1 day in my town than I will see in a whole year here in Washington, for I live out in a white section of Washington.

Now, I know that there are questions in your mind as to this, that, and the other, but, Mr. Chairman, you would have done well to have had a southerner or two on this subcommittee because you are completely mistaken, in my opinion, as to the conditions which exist in the South. And if you don't recognize that every step taken by the Court and by this committee, and by the Congress, has led down the trail toward cleavage between the races, more ill will and distrust

and actual crime between the races, you must not read the newspapers.

Again, you are forcing the people of the South to demand that their Representatives in the Congress match politics with politics; and the South does have enough votes to do that. The people in the Southern States are in position to demand that their Senators and Representatives in the Congress go so far as to bind themselves together in a group. And if they do, the people have it in their power to determine which party organizes the Congress, and under normal conditions they would have it in their power to determine who would be President.

Now, you may say that is not possible. I think it is. I think it is to be deplored that such a situation might be created, because the Congress and the Presidency would be obligated to a coalition; and we have seen that if you get three parties you may get four and you may get five. Yet, if the present course continues I see no other alternative. This is no threat, but represents my honest judgment as to what the road on which you are traveling will lead to.

Mr. Chairman, I recognize that in speaking to this subcommittee, with no southerner upon it, I face pretty much the same situation before your subcommittee as I did once when I was a trial lawyer. I was persisting upon arguing a motion before the judge. I insisted that I have 30 minutes to argue it, and he said, "Ten minutes is long enough." I kept insisting on 30 minutes. After some time spent, the judge said, "All right, take your 30 minutes, but I have written my decision. It is in my drawer, and it is against you." I recognize that is pretty much what I am up against before your subcommittee here today; but Mr. Chairman, I am speaking from the heart.

You and members of this subcommittee should think before you vote favorably upon these bills, compare the conditions which now exist in the South with those which existed before the Supreme Court decisions. You will find that, except for a few individual elections for which you might claim credit, including the Brooks Hays defeat, your actions and those of the Supreme Court have made the situation 10 times worse, and the proposed legislation you have here now is simply another step down that road.

You can make all of these actions a Federal crime, but if you do, the defendants are going to be tried before people in the same State. You can send the FBI into these areas under new laws, but they are in these areas now under existing laws. You can demand that the Federal Government pay all the costs of schools for Negro people to attend; and you thereby fix it so other people in turn will have to provide their own. Why, you can provide for the issuance of an order for integration, but what you really do is drive a further wedge between white and black, and in reality, cause wider separation. You are bringing about further division, which after all is segregation.

Apparently many sections of this country believe in economic segregation; that if certain Negro citizens make enough money to live out in a white section, what of it? I say you are driving toward a caste system based on money and not toward the end that you think you are.

Mr. Chairman, I thank you for a chance to appear here. I am sorry I did not have time to present a prepared statement, as I have been ill

for about 10 days; but I speak to you from the heart and from the experience of a number of years in public affairs.

The CHAIRMAN. Your statement this morning with your point of view was a very logical one, and with 10 days' preparation it would have to be extremely brilliant, but we are very, very happy to have you with us.

Mr. WHITTEN. Thank you, Mr. Chairman.

Mr. MILLER. Mr. Chairman, I would like to observe to my distinguished and beloved colleague from Mississippi, for whom I have great respect and admiration, that I was pleased to note your devotion to and fondness of the two-party system, and I hope you will do something about that.

Mr. WHITTEN. Thank you. As I understand it, I would have to work in both parties because the current opinion is there are at least two divisions in each party. But as you pass this kind of legislation, I think you are driving the people of the South to demanding that their legislators unite for whatever effectiveness they can have in the organization of the Congress and through their electors in the Electoral College, in the election of a President.

The CHAIRMAN. Off the record.

(Discussion off the record.)

Mr. WHITTEN. I would say for the record, if I may, that what I am talking about would not be helpful to either the Democratic or the Republican Party, because it would leave your Congress and your President largely dependent upon a coalition, which if it stayed put might be good, but a switch might happen on a single issue and three parties lead to four, four to five, and there you go. Thank you again, gentlemen. I hope you will take to heart the facts which I have pointed out today.

The CHAIRMAN. Our next witness is our very distinguished colleague, the eminent Representative from Alabama, Mr. Carl Elliott.

STATEMENT OF HON. CARL ELLIOTT, A REPRESENTATIVE IN CONGRESS FROM THE SEVENTH DISTRICT OF ALABAMA

Mr. ELLIOTT. Mr. Chairman and gentlemen of the committee.

I appreciate very much the privilege of appearing before you to present my views on the so-called civil rights legislation now under consideration.

I oppose all these bills.

The Supreme Court has made some bad decisions. Now it is proposed that the Congress take action to shore up these bad decisions. Furthermore, the particular bills before this subcommittee are bad legislation. Let me discuss my thoughts on these three points in a little detail.

The Supreme Court in 1954 in ruling against racial segregation in the public schools made an exceedingly unwise decision.

The decision has worsened race relations all over the country.

It has hindered the progress of public education in many areas.

It has undermined public faith in the judicial process.

No one who lives in the South need investigate to know that the relationship among the peoples there has undergone a grave deterioration. Mutual trust, confidence, friendliness, and cooperation between

the races have been frozen out by suspicion, fear, incrimination, and litigiousness. The steady and increasingly rapid progress in development of the human welfare and economic improvement of all people in the South in the last decades has now almost ground to a halt. Reversals of longstanding public policy by the Supreme Court, an agency not publicly accepted as an innovator, have shocked and torn and bewildered peaceful communities which have never experienced violence or hatred before.

States and communities which have sacrificed to wrest from their poor land the means of providing better education for all their children find themselves without schools at all, or with the prospect of all their labors for education being lost.

People who concern themselves with law—and this includes everyone who senses that men who govern unrestrained by laws are tyrants—find their reliance on law as the stable platform on which to build all human relationships shaken. They find their faith in the judicial process weakened. The Supreme Court, instead of being an unimpassioned appeals tribunal which safeguards their liberties against encroachment from the active branches of government, now has become in their minds itself an encroacher on the freedoms of association and local action which they value most dearly.

Their property, as expressed in capital investment in school plant, relying on 50 years of public acceptance and court acquiescence of separation, is in jeopardy.

Social revolution does not come easily. Especially can it not be brought about by judicial fiat, unsupported by the sentiment of the vast majority of citizens involved. School desegregation will not come to the South in the face of the present determination by virtually everyone concerned that the two races do not choose to associate with each other in schoolrooms. Desegregation will not come, no matter what legislation is passed. The only result of continued legal pressure will be disruption of public education as we know it, and disruption of law itself.

I, for one, earnestly hope that the Supreme Court will take judicial knowledge of the facts of the present school situation and make their future judgments conform to the facts that exist.

The courts have shown some signs of awakening to this reality. I was encouraged by the holding of the Supreme Court that Alabama's pupil placement act is not invalid on its face. This amounts to an acknowledgment that the States, after all, have the right and the responsibility to administer their schools. This is a happy contrast to some other decisions that have seemed to insist upon control of schools by the Federal judiciary, even by those judges in Washington who at first said they intended to leave local enforcement in the hands of local judges.

Perhaps such developments indicate a return to judicial self-restraint in policymaking that has been lacking these past 5 years.

Several times before in the history of our dear land the Supreme Court has precipitated constitutional crises by trying to legislate on fundamental issues that divided our people. Whenever the members of the Court have deceived themselves into believing that they were called upon to save the country from some often-imagined evil, the

Nation has been rocked by convulsions until the ill effect of their decisions could be overcome.

In the first days of the Republic the Supreme Court palpably misconstrued the intent of the living framers of the U.S. Constitution as to the jurisdiction of the Federal courts. This decision had to be corrected by a constitutional amendment.

The Dred Scott case, in which the Court was so anxious to make policy that it reached out to declare unconstitutional a law which had already been repealed by the Congress, added fuel to the flames of another constitutional crisis that were extinguished only with blood.

Likewise, only action by the Congress to alter the size of the Court saved the method that had been used by the Union to finance the War Between the States.

To avoid another misconception of congressional intent an adjustment of the jurisdiction of the Supreme Court was required.

At the end of the 19th century, the Justices saw the specter of socialism in the income tax and changed a ruling of 100 years standing to hold that the Constitution forbade it. After years of delay, the 16th amendment finally allowed enactment of a taxation policy in accord with the people's wishes.

The long blockade of social legislation in such fields as child labor and minimum wage in this century was the result of Supreme Court Justices' insisting on finding in the Constitution the embodiment of their ultra-conservative views of utter laissez-faire economics. Changes in membership and a change of heart brought about a greater exercise of judicial restraint that allowed the legislative branch to make public policy on these critical social matters.

We are now faced with the most severe constitutional crisis in a hundred years. It is the result of similar judicial attempts to legislate. Hopefully the Supreme Court in our time may undergo changes in membership or sober second thoughts that will again save us from this thing that divides our Nation.

If we are frustrated in the prospect of such change, we must consider more drastic measures to bring the Court into line with proper intent of the public. I refer to such measures as the Talmadge resolution to amend the Constitution to make clear that control of schools is a matter for the States and local districts to handle. Or it may be desirable to adjust the jurisdiction of the Supreme Court to keep it from speaking on measures that were intended by the framers, and are almost universally felt today, to be State matters.

Thus, Mr. Chairman, I do not believe the Congress should enact a civil rights bill in this Congress. I do not think that we should attempt to shore up with legislation unwise decisions of the Supreme Court. Instead we should take the steps I have just described, as well as amending other statutes where congressional intent is unclear or unspoken, or has been distorted.

If, contrary to my belief as to the need and desirability of legislation in this field, some bills were to be passed this year, I do not think it should be a bill with the provisions now before you.

Several provisions of some of the bills before you seek to have the U.S. Office of Education empowered and directed to bring about desegregated schools through sending consultants into the States, and through granting money to schools to finance desegrega-

tion. Another provision would have the U.S. Office of Education build and operate presumably integrated schools in federally impacted areas where the local schools were not operating.

Mr. Chairman, I cannot think of any move any more disastrous to the structure of the educational assistance to the States than such provisions. I have had a hand in framing and helping to pass much of the legislation under which the U.S. Office of Education now renders this assistance. I sponsored or cosponsored and helped guide through the Congress such highly popular and successful educational assistance programs as Public Laws 815 and 874, the Library Services Act, and the National Defense Education Act of last year. All of this legislation was drafted with the utmost care to include every safeguard we could devise to preclude any semblance of Federal control of local schools.

I am proud to say that the acts have worked out as they were planned. A recent independent study of the operation of Public Law 874, for example, showed not a single instance of any Federal control. I think I may say that the great public acceptance which these laws have met has come about because there has been no Federal interference in local schools.

Yet it is now proposed in these bills to take this same U.S. Office of Education that has kept so scrupulously from interfering in State and local administration and to use it to encourage and bring about integration in the communities of the South. It is even proposed to use one of these laws—the federally impacted assistance law—to circumvent local educational decisions.

Mr. Chairman, I predict the collapse of these necessary and popular programs of Federal assistance to education if they become identified in the public mind with Federal interference in local affairs. Let us not distort the programs to serve the purpose of fostering a social revolution on a determined people.

Other provisions of the pending bills are equally dangerous. A common provision of the bills would give the Attorney General power to initiate civil suits to secure privileges for individuals. Such provision violates the basic concept which we have always maintained that only an injured party has standing in court to claim redress. Under our constitutional theory, rights are not a gift of the Government, but are the inherent privilege of a human being who is to be the sole judge as to whether he thinks he has been harmed.

Therefore, Mr. Chairman, I think these bills should not be enacted. They are bad, as well as untimely. They are a hodgepodge of decoys and blows to strengthen an erroneous and unwise foray by a judicial body into the most sensitive areas of policymaking. The Congress in its wisdom as a barometer of what the people want, for the most part heretofore left this area untouched, trusting in the natural processes of accommodation of peoples living together. To further aggravate with new legislation the unhappy climate caused by judicial meddling in this area would be unthinkable and unfortunate.

I trust that the committee will see the problem in this practical light and let these bills die in committee.

Thank you for your attention.

The CHAIRMAN. Thank you very much.

If there are any corrections or alterations you wish to make, you may do so.

Our next witness is the Hon. Charles Vanik from Ohio. Mr. Vanik.

STATEMENT OF HON. CHARLES A. VANIK, A REPRESENTATIVE IN CONGRESS FROM THE 21ST DISTRICT OF OHIO

Mr. VANIK. Mr. Chairman and members of the subcommittee, I welcome this opportunity to appear before your committee, to urge implementation of the Civil Rights Act of 1957. Specifically, I am here to support the Celler bill and the Douglas bills, which I think make a great and necessary stride in that direction.

The deplorable mob action which we are witnessing in Pearl River County, Miss., where an accused person was dragged from confinement by a lynch party and then clubbed into submission and his remains disposed of in parts today unknown, is an assault upon established law and order. Such an example of uncivilized action points up the real need which exists for concrete legislation designed to enforce the constitutional right to the equal protection of the laws to all persons regardless of race, color, religion, or national origin.

In testimony previously presented before your committee I pointed to the provincial nature of jurisprudence which can emanate even from Federal district courts which are, in effect, local courts administered by Federal judges appointed from local communities and carrying into Federal jurisprudence the feelings, the sentimentality, and sometimes the indiscretion of local community reaction to national laws. The Mississippi incident mentioned above dramatizes such community feelings in certain areas of our Nation. The Little Rock school crisis of last year, which resulted in the Federal district court suspending the operation of a clear, Federal mandate, constituted the blatant disregard of established law which is possible in the absence of a clear Federal status to the contrary.

The 14th amendment to our Constitution states that no State shall "deny to any person within its jurisdiction the equal protection of the laws." Yet, we see time and again how many areas of this country flout both the letter and the spirit of this decree. While the Supreme Court in its courageous 1954 school desegregation decision valiantly attempted to reinforce the mandate of the 14th amendment as it pertains to schoolchildren, it is apparent that this cannot be the full extent of Federal efforts to implement this vital constitutional guarantee. The Court decision in the school case was an invitation to the Congress to legislate over the full scope of the 14th amendment's equal protection of the laws provision. And Congress took up the challenge in its 1957 enactment of a very substantial civil rights law. Now we have seen where this law was inadequate—where it needs shoring up to give it some teeth. This law was more a statement of principle than a means of accomplishing the objective. This is why it is imperative that Congress act again—this time in a deliberate way, with the benefit of 2 years' observation of the operation of the law. It is indeed out of this experience with the inadequacy of the 1957 law that we have felt the necessity to fill the gaps in the law of the land with legislation introduced in 1958 and again this year.

In my judgment the Civil Rights Act of 1959 sponsored by Senator Douglas and Chairman Celler meets this need. It puts into law the full weight, the full force, and unified power of the Federal Government behind the Constitution without further equivocation and delay. It is high time that the legislative and executive branches of the Government got in stride with the judicial branch. Such controversy does us harm at home and more serious damage abroad. It is not enough that the mood of our people demands the resolution of the whole issue; it is the responsibility of the people's Representatives in the Congress to quickly and firmly put this issue behind us, so that we can address ourselves to other more pressing matters.

This act is not directed at one section of the country alone. There is no doubt of the urgent and compelling need for legislation to achieve the elimination of segregated public schools in the North and South alike. While the progress which has been made in the South is discouraging, this lack of progress is second only to the subtle sidestepping of desegregation in the North. While segregation in the South is the result of the operation of southern laws which protect it, segregation exists in the North under the protection of economic laws which are equally as effective in producing the same result.

The revolution which some Members of this Congress feel is taking place in one part of the country is actually taking place in the North as well as in the South, and I appeal to you on the basis that I am not satisfied with the progress that we are making in the North.

Integration of schools in the northern cities is mere misrepresentation of existing conditions. Schools are open to all residents of the school district and through circumstances, not always beyond the control of civic leaders, residential areas which comprise the school district are segregated—not by the operation of law, but by the absence of laws to insure equality of opportunity for the credit which is required for homeownership. There is no equality of opportunity between white and nonwhite of the same job security, income, or achievement in thrift to purchase the same kind of a home in the same kind of an area. Throughout the North, the banks and the lending institutions, in collusive agreements, have designated those areas in which home mortgage credit may be extended to nonwhite citizens.

Thus, we witness the opening of the central areas of cities to nonwhite use and the closing of vast areas of the suburban sections to the exclusive use of white residents. This results in a condition in which nonwhite housing proceeds in a steady line from the center of the city just behind recently integrated areas of transition which meet head on into the suburban areas of segregation.

In my community of almost 54 cities, towns, and villages in the Greater Cleveland area, not more than eight or less than one seventh are open to any nonwhite housing. While the record for school integration in the South is not good, its record for residential integration is perhaps better than that prevailing throughout the North. The land areas of southern suburbia were for the greater part already inhabited by nonwhites and the acquisition of land in most of these suburban communities is much less a problem than it is in the restricted communities which constitute most of the land areas surrounding northern cities.

I think this applies in the cities of northern Virginia which we can observe closely at hand. The suburban communities of these cities are areas in which the nonwhite was forced to live because of the segregated central city. So as the central city spreads out to the suburbs, the nonwhite is already there and he does not have to make his way into the suburban areas. The residential segregation of the North must be met by laws and administrative action with the same vigor as we seek to bring about school integration in the South. What we seek to achieve in our schools must also be achieved in the communities. Our lending institutions, particularly those dealing in Government insured loans and those insured by Government institutions, must be direct by the statute or by policy to avoid segregation practices in the conduct of their home loan business.

In the North there is nothing as volatile and as temporary as an integrated neighborhood. Integration lasts but a few years when quiet intolerance converts it into a segregated area. The vast communities "in transition" in all of the northern cities are proof of this condition. Integration exists only where citizens continue to live together in stable communities. A community in transition in which it is decided that nonwhites may be permitted to obtain necessary financing for home purchase is not an integrated community but merely a community passing on to integration. Integration is meaningful only when it refers to a stable community condition. Stability in integration can be achieved only when lending practices exist which permit the nonwhite the same opportunity for the financing essential to homeownership in any community in which he may desire to live.

The integration of our schools can only become meaningful when it is accompanied by practices which will encourage the integration of community life. As long as banking and financial practices in the North encourage the establishment of segregated nonwhite communities, the pressure will increase on the limited areas of the central cities to convert them into areas of segregated refuge. This is a problem as national in scope as is the problem of school segregation. Residential integration on a permanent lasting basis is as essential as is school integration, and you simply can't have one without the other.

It is my hope that you will in your deliberations consider legislation to permit and to encourage and perhaps to enforce integrated lending practices and policies, which, in my judgment, is the course of true integration.

The CHAIRMAN. Thank you for your refreshing statement. You are admitting that we in the North are culpable?

Mr. VANIK. Yes, sir.

The CHAIRMAN. We ought to address ourselves to all parts of the country, not one part of the country?

Mr. VANIK. And what I sought to point out in my statement is that this is a revolution or an evolution which is taking place not only in the South, but in the North. We also have our problems and we should endeavor by legislation and by enactment of acts of Congress to get to the bottom of this problem, which stems from the segregation through financial and money-lending practices in the North.

The CHAIRMAN. Thank you very much.

Mr. McCULLOCH. Mr. Chairman, I would like to ask my very able and distinguished colleague this one question which touches on the

final observation that the witness made. Have you, Mr. Vanik, introduced any bills which would implement your theories and conclusions in the matter of the field of mortgage lending?

Mr. VANIK. I have not introduced legislation, but I have supported that kind of legislation.

Mr. McCULLOCH. Mr. Chairman, one of the reasons I ask that question is because this subcommittee has been accused of being stacked. If such legislation were introduced it would probably go to the Committee on Banking and Currency, where that charge could not be made.

Mr. VANIK. The gentleman makes a very proper observation. We have been very much concerned with getting our legislation through Congress and avoiding those pitfalls which might defeat the overall purpose of legislation. When we can introduce such legislation and present it in such a way that the Congress can vote on it without jeopardizing important large-scale programs, such as the housing and the school construction programs, I think that I would be very happy to support such proposals.

Mr. WILLIS. Mr. Chairman, may I say I was very much impressed with the tempo of your statement, Mr. Vanik, and I listened to it very attentively.

I think the sentence before last, or the last sentence of your prepared statement states that you would like to see legislation which would encourage, to use another word, and perhaps to enforce, and I appreciate that. You realize the difficulty of enforcement of these laws, obviously, from your statement.

Mr. VANIK. Yes, I recognize that.

Mr. WILLIS. I appreciate the tempo of your statement.

The CHAIRMAN. I think the gentleman said perhaps.

Mr. VANIK. I said perhaps enforce.

Mr. WILLIS. That was the thing that struck me.

The CHAIRMAN. But you use the word perhaps, I think.

Mr. WILLIS. Will you read the sentence?

Mr. VANIK. I can't quote that because I think that part of it was impromptu. All I had written here in my original statement was permit and encourage integrated lending policies, and then I inserted the words "and perhaps."

The CHAIRMAN. Just a minute. Will you excuse me a minute, Mr. Rauh. You notice the bells have rung and very shortly we will have a vote on the question of overriding the Presidential veto, and I want to say to you and Mr. Wilkinson, we are unexpectedly getting a very, very important rollcall in connection with the Presidential veto. That involves that we call a constitutional rollcall. We may have to adjourn until tomorrow morning unless you want to submit.

Mr. WILKINSON. I should like to be heard tomorrow morning, sir. I recognize the fact I might be delayed in appearing.

The CHAIRMAN. It wasn't our fault. We are sorry to put you to that inconvenience.

Mr. WILKINSON. That is all right, sir. I understand.

The CHAIRMAN. How about you, Mr. Rauh, tomorrow morning?

Mr. RAUH. Tomorrow morning would be fine. I could do it early in the morning.

The CHAIRMAN. We would put you on at 10 o'clock. How long would you take in the morning?

Mr. RAUH. Not too long unless there are some questions. I am representing, as you see, all of the civil rights organizations. There are a number of them in the response.

The CHAIRMAN. How long will you take, Mr. Wilkinson?

Mr. WILKINSON. I suppose 30 minutes, sir, or maybe 40.

The CHAIRMAN. Would you care to have Mr. Wilkinson precede you and then you can follow?

Mr. RAUH. Either way.

The CHAIRMAN. You both be ready at 10 o'clock tomorrow morning, and you can follow Mr. Rauh, and that will conclude the hearing.

The CHAIRMAN. Our next witness is our colleague from the State of California, Mr. Cohelan.

STATEMENT OF HON. JEFFERY COHELAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. COHELAN. Mr. Chairman, thank you for this opportunity to speak in favor of H.R. 3147. May I make my position clear at the outset: It is my conviction that there is no more important bill before the 86th Congress and that its passage is long overdue.

As the Representative in Congress from the Seventh District of California, I would like to call the attention of the committee to the recently passed California Fair Employment Practices Act, a State law authored by Hon. Byron Rumford, California State assemblyman from Berkeley which is also my own home.

Our new FEP Act prohibits discrimination in employment because of race, religious creed, color, national origin or ancestry and provides that willful violation is a misdemeanor punishable by up to 6 months in jail, a fine of up to \$500, or both.

Furthermore, the act sets up a five-man commission to investigate complaints of discrimination. Specifically—and this is the provision to which I want to call particular attention—it provides that this commission need not wait for the filing of formal complaints to go into action. The commission itself is authorized to make investigations where it thinks discriminatory activities are going on.

Mr. Chairman, I cite this clause in the California FEP Act because its purpose is, at base, the same as that of titles V and VI of H.R. 3147. I note that the California FEP Act refers only to discrimination in employment and that title V of H.R. 3147 refers only to school integration, while title VI of H.R. 3147 applies to any deprivation of the right to equal protection of the laws by reason of race, color, religion, or national origin. My reference is to the fact that, in each case, these clauses provide for enforcement by government agency, in one case the attorney general of the State of California, and in the other the Attorney General of the United States.

In passing FEP legislation with this kind of enforcement clause, the California State Legislature, speaking for the citizens of the State, has made it quite clear that we realize enforcement of civil rights cannot be left to the private citizen alone. In California we have recognized, as the passage of this legislation indicates, that civil rights are

not enjoyed in a consistent manner and to the same degree in all areas when the burden of enforcement is placed upon private citizens.

In extending our view to the national scene, we find that other States have had experience similar to ours in California and have already enacted or are now contemplating similar legislation. Then we find, and often with fresh dismay, that there are still other States that argue that private citizens should bear the burden of enforcing the Constitution and then proceed to write local laws and establish local administrative procedures which freeze existing discriminatory practices and pose new problems for any individual who might attempt to seek such enforcement.

This is, of course, a matter of record. Mr. J. Francis Polhaus, counsel for the National Association for the Advancement of Colored People, has compiled a list of these discriminatory laws and administrative policies and Senator Paul Douglas has included that list in the Congressional Record of February 10, 1958. Testimony before your committee has referred to and further detailed this same body of fact.

Mr. Chairman, we have a government of law and, as legislators, we work to implement and perfect the existing body of law. It is my conviction that H.R. 3147, and particularly title VI, will implement the law insofar as it will provide new procedures to guarantee civil rights to all citizens, and that it will lead to a perfecting of the law insofar as it will provide procedures through which discriminatory State and municipal legislation can be immediately tested.

May I say that I direct my remarks specifically to title VI, not because of any lack of interest in other bills being considered by your committee, but only because, to my mind, we must focus on one thing at a time in the interests of legislative action and this legislation deserves top priority.

There can be no real question that this legislation is needed on the Federal level. The several States which have chosen to pass local legislation of a discriminatory type have themselves created the situation which now requires Federal attention.

In our deliberations on this legislation, we are aware that the people of other nations are watching, particularly those in Asia, Africa, and Latin America. I cannot believe they are watching to see if a government of equal rights is a good thing. They are certain of that. Instead, what they want, I should say, is concrete evidence that the U.S. Government is, in everyday fact, functioning in such a manner that all citizens do enjoy full and equal rights. In short, can our Government do the job they want theirs to do and do they, therefore, want to adopt our system? They will make their decisions on the basis of empirical evidence. We are being judged by our actions.

We cannot expect that racial discrimination will be thought not to exist in the United States when the evidence shows otherwise. Nor can we expect that we will be thought to have taken every action to guarantee constitutional rights when the evidence shows we have refused to provide for enforcement of those rights in the face of a very evident need.

In closing, Mr. Chairman, may I say this: We cannot prevent this legislation. We can only continue to delay enactment, although I know of no justification for doing so.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Cohelan.

We now have the Representative from Louisiana, Mr. Harold B. McSween.

**STATEMENT OF HON. HAROLD B. MCSWEEN, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF LOUISIANA**

Mr. MCSWEEN. Mr. Chairman, I appreciate the opportunity to appear before you.

During the last 2 weeks I have attended a number of the meetings of your committee, and I have heard the testimony of several of those who have previously appeared in opposition to civil rights legislation introduced during this session of Congress, particularly H.R. 3147 and H.R. 4457.

Because of the excellent presentations previously made dealing with the legal and constitutional aspects of this matter I shall limit my remarks to practical considerations.

I am a new Member of Congress, and I should first like to tell you something of my experience in public education in Louisiana.

The only schools I have ever attended were public schools. I attended public elementary and high schools in Alexandria, La., beginning in 1932, and I was graduated from Louisiana State University Law School in 1950. I subsequently practiced law in Alexandria, La., until coming here in January 1959.

During 1954 and 1955, after popular election, I served as a member of the Rapides Parish School Board. That board operates the public schools in Rapides Parish, La., which has a population of 100,000.

During 1957 and 1958, subsequent to popular election, I served as a member of the Louisiana State Board of Education, which determines policy for all public education in Louisiana and which is the governing board for 9 state colleges and 30 trade and special schools.

As a product of the public schools of Louisiana and as a former official of the school system, I have the highest regard for public education as an institution.

I am sure that you gentlemen share my regard for public education and know of all the progress in this Nation as a result of public education.

I feel that I am eminently acquainted with public education in Louisiana both at the local and State level and with the people of Louisiana who support public education. Perhaps I am one of the first to come before you during this session with previous contact in the field of public education.

I am a member of the Methodist Church. I am not a member of any organization connected with advancing or resisting the advancement of any race of people. I can conscientiously say that it is my honest opinion that I have contributed to the advancement of both races in Louisiana.

Now I should like to talk particularly to the provisions of H.R. 3147 and title VII of H.R. 4457, but generally to all of the provisions of these two bills and similar bills before you.

Mr. Chairman, in title I of your bill H.R. 3147 you point out that the antisegregation decisions have not been complied with in many areas of the nation. It is a fact that in the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Arkansas there has been little or no integration in the public schools below college level during the 5 years intervening since May 17, 1954. In Louisiana, Mr. Chairman, there has been no integration whatsoever in the public schools below the college level. Significantly, the record will show that there has been virtually no application by pupils of either race to attend schools other than those provided for their own race except for the purpose of preparing test cases, the only active one of which emanated from the city of New Orleans.

In the interest of time I shall not recount the numerous unanimous and virtually unanimous actions of the Louisiana Legislature since May 17, 1954, to affirmatively deal with this new problem, which should illustrate the attitude of the Louisiana people.

This should mean, Mr. Chairman, to an impartial observer that the people of Louisiana are determined to resist public school integration. Why, then, do you believe in the success of the purposes of your bill in the face of these compelling facts and conditions? Do you think you can make people change their minds? Do you think you can force children to attend school?

Mr. Chairman, according to your bill you apparently think it is now the time for Congress to authorize the Federal Government to go into the South and promote integration in the public schools. You apparently are optimistic about such a course of action and must of necessity feel that such a program would be successful.

You have not held any hearings in the South. I do not know whether you are personally familiar with the conditions in Louisiana affecting the purposes of your bill. In my humble judgment, having lived in Louisiana all my life and having been officially connected with the public school system, I am familiar with such conditions.

Let me tell you what will happen in Louisiana should your bill become an act of Congress.

Mr. Chairman, public education, as we know it in Louisiana, would cease to exist. The people of Louisiana are not going to support an integrated public school system, notwithstanding their demonstrated devotion to public education. By your measure, you will destroy public education. Louisiana will continue to seek lawful means to educate its children in some manner with public funds. But if you are under the impression that Louisiana will accept integration as the alternative, I am here to disabuse you of that idea.

My purpose is not to tell you the reasons why this condition exists or to justify those conditions. I sincerely regret the existence of this problem as much as you do. However, the addition of Federal force will only intensify the social attitudes of the Louisiana people. It will not accomplish integration in the public schools. Your wisdom is desperately needed in this matter to prevent a rebirth of hatred and to prevent the demise of public education in Louisiana.

Mr. Chairman and members of the committee, I appreciate the courtesies shown me.

The CHAIRMAN. Mr. McSween, I want to say that was a very reasonable statement, and coming from, shall I say, a neophyte in the halls of Congress it is a credit to you and to your State, and I am very happy to have had your statement. We certainly need all the wisdom that we can bring to bear upon this problem, to be able to come forth with something that could be acceptable. I can assure you that it is an awfully hard task that we face here. It is not an easy one. I sometimes think when I go to bed at night, I wish I didn't have this problem on my mind, and if you want to take the problem you are welcome to have it, I can assure you.

Mr. McSWEEN. I don't want it either.

The CHAIRMAN. I want to say also, Mr. McSween, that it is true that we have held no hearings in any parts of the Southland, but you must appreciate that considering the exigencies of Congress and the need for our attendance in Washington, if we would call hearings in States affected by legislation we would be all over the country. We would have to hold hearings in the 50 States.

Mr. McSWEEN. I didn't suggest that you should. I was merely pointing out that in view of the fact that you had not I was here to give you the expressions and views of the Louisiana people as I know them, and as a former public school official.

The CHAIRMAN. That is why we want people of intelligence like you to come here and tell us about the situation. That is the purpose of holding these hearings. We have no way of knowing it all. We are not omniscient. We are not the end all and be all of everything here, I can assure you. We are trying to do our best, and we try to do our best free of animosity and passions, and we try to give this the fair degree of objectivity if we can. There is bound to be prejudice creeping in. We can't avoid that. That is human nature. You understand that, but bear with us a bit.

Gentlemen, we will now adjourn until tomorrow morning at 10 o'clock.

(Whereupon, at 11:20 a.m., the subcommittee recessed, to reconvene at 10 a.m., Friday, May 1, 1959.)

CIVIL RIGHTS

FRIDAY, MAY 1, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE No. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:10 a.m., in room 346, Old House Office Building, Hon. Byron G. Rogers presiding.

Present: Representatives Rogers and McCulloch.

Also present: Edwin E. Willis, U.S. Representative from the Third District of Louisiana; William R. Foley, general counsel of the subcommittee; and Richard C. Peet, associate counsel.

Mr. ROGERS. The subcommittee will come to order.

As I understand it, the gentleman from Louisiana has something. Our colleague from Louisiana will introduce the first witness.

Mr. WILLIS. Thank you very much, Mr. Chairman.

Now, Mr. Chairman, I would like to present to this committee Mr. W. Scott Wilkinson, of the Shreveport bar. Mr. Wilkinson is a member of the firm of Wilkinson, Lewis, Wilkinson & Madison. He is a special assistant to the attorney general of Louisiana in specialized legal affairs.

He is a member of the Shreveport bar, the American Bar Association, the American Judicature Society, the Louisiana Law Institute, which is in charge of the vast work on qualification of general law officers. He is a member of the Stair Society of Edinburgh, Scotland, the Seldon Society of London, England, and a member of the International Bar Association.

He is the author of numerous legal papers.

He served in the Louisiana Legislature for a number of years. He was a member of the Armed Services in World War I with the rank of captain, and entered overage, I might say, the Second World War with the rank of major.

He is a graduate of the Louisiana State University, and an outstanding lawyer from my State. It is my privilege to present Mr. Wilkinson.

Mr. ROGERS. Step forward, Mr. Wilkinson. You can either stand or take a seat, whichever you desire.

Mr. WILKINSON. Thank you, sir.

Mr. WILLIS. If you have a statement, could you pass some of them up here, Mr. Wilkinson?

Mr. WILKINSON. Yes, I will be glad to. I have copies of this written statement for all of the members of the committee.

**STATEMENT OF W. SCOTT WILKINSON, ESQ., ATTORNEY AT LAW,
SHREVEPORT, LA.**

Mr. WILLIS. I understand you will speak from your statement rather than read it?

Mr. WILKINSON. Yes, the statement is a bit long. It is somewhat in the nature of testimony and in the nature of a law brief. I won't cover the entire statement. I certainly shall not read it.

Mr. WILLIS. Would you like to insert it at this point in the record?

Mr. WILKINSON. I would like the statement to be inserted in the record.

Mr. ROGERS. Well, then the statement will be inserted in the record at this point, and you will be given the privilege to talk from it or give us the advantage of any other information that you have.

Mr. WILKINSON. I will try to give as brief a synopsis of the statement as I can in as short a period of time as I can.

Mr. Chairman and members of the committee, we appreciate the courtesy and the patience of this committee in listening to a long succession of witnesses on the same subject, and covering, of course, to some extent the same ground. I will try not to tire the patience of the committee or to mislead its sense, so of necessity I may cover some ground that has been covered by other witnesses.

With all due respects to the sponsors of these bills, gentlemen, the people of Louisiana and the people of the South, indeed, a lot of people from other States, protest these proposed civil rights bills as an unwarranted and unconstitutional invasion of their liberty of local self-government and of their rights as sovereign States. We would prefer in Louisiana that our young people grow up in ignorance than that they should grow up in attendance at integrated schools. In fact, the State of Louisiana has passed a number of laws which would preserve and are intended to preserve to our State, to the children of our State, the right to the kind of education that we think they ought to have. Our compulsory school law has been amended whereby no child in the State of Louisiana is compelled to attend an integrated school. The Governor is authorized to close any and all schools in the event that they are ordered to be integrated. The school boards in the individual school districts have been authorized to sell or lease or otherwise dispose of their closed schools, and, of course, there are provisions for individual assistance to children who desire to attend some school of their choice.

Now, we don't want to be in the position of being defiant to constituted authority, but we believe that we are on sound constitutional grounds in making these provisions for the education of our children. We think that the Congress instead of enforcing integration and endorsing and implementing the school desegregation decisions should in the light of the present-day experience and conditions correct the tragic error of the High Court.

There is, of course, authority for the Congress to do this in the fifth section of the 14th amendment, and the Supreme Court has taken notice of the fact that its decisions are not always correct.

In the case of *Helvering v. Griffiths*, reported in 318 U.S. 371, the Court said:

There is no reason to doubt that this Court may fall into error as any other branches of the Government. Nothing in the history or attitude of this Court should give rise to legislative embarrassment if in the performance of its duty a legislative body feels impelled to enact laws which may require the Court to reexamine its previous judgments or doctrine.

Of course, I am not naive enough to believe this committee is going to recommend that these proposed bills be put into the wastebasket and that a new one be prepared to take cognizance of present day psychology and present day experience and present day conditions, to inform the Supreme Court that the integration of the public schools is a mistake insofar as all of these United States may be concerned. But we have our reasons for saying that that is what the committee ought to do, and that is what the Congress ought to do.

The desegregation decision of 1954 violates the Constitution, and we think it is a nullity for that reason. Now, you gentlemen as lawyers know that prior to 1954, over a long period of time, the Constitution was interpreted as permitting separate but equal facilities in the public schools. The Supreme Court said that exactly in its 1954 desegregation decision, and it there referred to the fact that ever since the decision in *Plessy v. Ferguson* that that Court had in seven or eight decisions reaffirmed that doctrine, although I believe in one or two it somewhat qualified it on the subject of intangibles.

Now, the Court has also said that the Constitution as interpreted by the Court is the supreme law of the land. It said that in *Cooper v. Aaron*, reported in 358 U.S. 3d L Ed. That is the celebrated Little Rock case that was very recently decided, and appears in the advance sheets. I believe that same statement is made in the bill that has been presented by the administration here, No. 4457.

Well, if the Constitution in 1954 made the provision that separate but equal facilities were to be provided under the intendment of the 14th amendment to the Constitution, that was the Constitution in 1954, and it could only be changed in the manner provided by article V of the Constitution. There has certainly been no change made in the Constitution, either by act of Congress or the acts of the State or in the manner provided in that article of the Constitution, but the Court without constitutional or other authority changed the meaning of the Constitution, and they did that on the basis of modern authority. It expressly stated in its opinion that under the doctrine of *Plessy v. Ferguson*, that had been announced in 1896, that equality of treatment is accorded when the races are provided substantially equal facilities, and that the separate but equal doctrine was the interpretation and the application of the Constitution prior to that time. That, if you gentlemen please, is a decision without precedent. The Court has changed its ruling with reference to the applicability of statutes insofar as their constitutionality is concerned. But I don't know of any other case where the Court has said that up to this time and over a long period of time the Constitution has meant one thing, and henceforth and from now on on the basis of our psychological knowledge and experience as of this day it means diametrically the opposite.

Now, the judges, of course are sworn to uphold and defend the Constitution. You gentlemen have taken a similar oath. I have taken that oath myself in the armed services, as well as in the legislature of my State, and as a member of the bar, but none of us have taken any oath to uphold and defend the Supreme Court or any other mortal body of men who would change or destroy the meaning of the Constitution, because those changes are provided for in the Constitution itself and are to be made in another way.

Mr. ROGERS. Let me ask you a question there. Do you mean to say that when I take an oath as a Member of Congress to uphold the Constitution of the United States, that if the Supreme Court should interpret certain sections of the Constitution, as they did the 14th amendment, contrary to what many people think it means, am I duty bound to follow the Supreme Court decision in good conscience or am I to disregard it on the one hand and say, "I am upholding the Constitution and disregarding a decision"? What does the oath mean to you, and what should it mean to us, is really the question.

Mr. WILKINSON. Well, that does, of course, present any officer of the Federal Government with an embarrassing situation. He can't defy the Court, but certainly within his legislative or his constitutional authority he can do what he is authorized to do to correct such an error of a court. He is not obliged to do it, but apparently it is his duty to do it.

You recall in *Marbury v. Madison*, Chief Justice Marshall said that the framers of the Constitution contemplated that instrument as a rule for the government of courts as well as the legislature. Why otherwise does it direct the judges to take an oath to support it?

Now, I would like to call your attention in this same connection to a statement made by Mr. Justice Frankfurter in the very recent case of *Galvan v. Press*, reported in 347 U.S. 522, and I believe that that decision was handed down in 1957.

The argument was made in that case that a previous interpretation of the Constitution regarding the fifth amendment was erroneous, and that the Court should correct that erroneous ruling. In reply to this, Mr. Justice Frankfurter, as the organ of the Court, said:

It would be an unjustifiable reversal to overturn a view of the Constitution so deeply rooted and so consistently adhered to.

We think Mr. Justice Frankfurter was right.

A general statement of the law which is one that has been announced by State courts all over the United States appears in 16 C.J.S. at page 117, and reads this way:

In view of the rule * * * that the meaning of a constitution is fixed when it is adopted, the construction given it must be uniform, so that the operation of the instrument will be inflexible, operating at all times alike, and in the same manner with respect to the same subjects; and this is true even though the circumstances may have so changed as to make a different rule seem desirable, since the will of the people as expressed in the organic law is subject to change only in the manner prescribed by them. Amendments are to be construed in conformity with the design of the original constitution, and in the same spirit and according to the same rules.

I have one or two other remarks to make concerning this decision of the Court, and then I am going to discuss these bills in short order.

In 1954 in the desegregation decision, the Court made the statement that whatever may have been the extent of psychological knowl-

edge at the time of *Plessy v. Ferguson*, the finding that separate but equal has no place in the field of public education is amply supported by modern authority, and you members of the committee are cognizant of the list of those authorities in the footnote, all of them psychological writers, and I think Judge Perez presented some evidence as to their background when he appeared before this committee, and I have no desire to repeat that.

But the interesting thing is that although this was the modern authority in 1954, the Court had a little different rule 3 years prior to that and 3 years subsequent to that.

In the case of *Beauharnais v. Illinois*, 343 U.S. 250, Mr. Justice Frankfurter expressed the opinion of the Court, and he made this statement:

From the murder of the abolitionist Lovejoy in 1837 to the Cicero riots of 1951, Illinois has been the scene of exacerbated tension between races, often flaring into violence and destructions.

Now, this part of the opinion is what I think is particularly applicable to modern authority:

* * * violence between racial and religious groups must be traced to causes more deeply embedded in our society than the rantings of modern Know-Nothings. Only those lacking responsible humility will have a confident solution for problems as intractable as the frictions attributable to differences of race, color or religion. * * * Certainly the due process clause does not require the legislature to be in the vanguard of science—especially sciences as young as human ecology and cultural anthropology. * * * It is not within our competence to confirm or deny claims of social scientists as to the dependence of the individual on the position of his racial or religious group in the community.

In the *Galvan v. Press* case—that which I just read was a statement made by the Court in 1951, 3 years before desegregation. Now, just 3 years after that in the case of *Galvan v. Press* the Court made this statement:

We are not prepared to deem ourselves wiser or more sensitive to human rights than our predecessors, especially those who have been most zealous in protecting civil liberties under the Constitution. * * *

That was also Mr. Justice Frankfurter speaking. I have a great deal of admiration for that gentleman, although I don't share his views on psychology and social science. Nevertheless I think he is one of the sharpest minds and one of the keenest wits that has graced that Court in a number of years, and I subscribe to what he said in both of those cases before and after the desegregation decision.

Now, gentlemen, when judges go on the bench, they take the Constitution and the law with them, but they are not supposed to leave their commonsense and their everyday experience in chambers, and yet that is what the Court did when it overruled the statements made in the case of *Plessy v. Ferguson* that had been approved for 58 years. Those statements made commonsense and they were proved by present-day experience.

You recall, and I don't believe there can be disagreement with this, I have heard this doctrine repeated many times by lawyers and statesmen since *Plessy v. Ferguson*, although not in that connection:

The object of the amendment was undoubtedly to enforce the absolute equality of the two races before the law, but in the nature of things it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political, equality, or a comingling of the two races upon

terms unsatisfactory to either. Laws permitting, and even requiring their separation in places where they are liable to be brought into contact do not necessarily imply the inferiority of either race to the other, and have been generally, if not universally, recognized as within the competence of the State legislatures in the exercise of their police power.

Now, I don't think the statement contained further on in that opinion can be denied by anyone. You have heard it stated many times, and I believe the members of the committee will agree with this statement that was also made in *Plessy v. Ferguson*:

This is not psychological theory. This is everyday experience announced by the Court then, and it is true today.

If the two races are to meet on terms of social equality, it must be the result of natural affinities, a mutual appreciation of each other's merits and a voluntary consent of individuals.

Then the Court quotes this statement from the Court of Appeals of New York:

* * * this end can neither be accomplished nor promoted by laws which conflict with the general sentiment of the community upon whom they are designed to operate.

I would like to read one more paragraph from that court's decision: These are the reasons why we in the South, and, as I say, people from other parts of the Nation, too, do not believe that the desegregation decision should be implemented or enforced, but it should be left to be worked out in the manner in which that decision is being carried out today if it cannot be corrected. This is the last statement of the court, and I think you gentlemen know that it is true:

Legislation is powerless to eradicate racial instincts or to abolish distinctions based upon physical differences, and the attempt to do so can only result in accentuating the difficulties of the present situation. If the civil and political rights of both races be equal, one cannot be inferior to the other civilly or politically. If one race be inferior to the other socially, the Constitution of the United States cannot put them upon the same plane.

The wisdom of those statements made in *Plessy v. Ferguson* have been borne out by our experiences here in the District of Columbia and other Northern and Eastern States where integration has proceeded rapidly in recent years.

I am sure you gentlemen are familiar with the report of the Committee on the District of Columbia Subcommittee Report that was made in 1957. I will not read from the findings made in that printed report of the committee. They do refer to the disciplinary problems in the predominantly integrated schools, and the acts that border on criminality that were committed in those schools in clashes between the races. They do conclude with the statement:

* * * the integrated school system of the District of Columbia is not a model to be copied by other communities in the United States. On the contrary, it finds that the integrated school system in the District of Columbia cannot be copied by those who seek an orderly and successful school operation.

Now, let's go up to New York. I think you gentlemen are familiar with conditions that existed there just a year ago. I don't know what the situation there is now or prior thereto, but at that time there was quite a degeneration of the social and the educational fabric in the school system, and particularly in those schools where integration had taken place in a large degree.

There were three examples of rape, many examples of assault and battery, teachers being set upon and maimed and hurt, and just a bedlam of violence and lawlessness that became so acute that the school principal in one of the Brooklyn schools, George Goldfarb, committed suicide by leaping to his death from an apartment building when he was summoned to appear before a grand jury.

Things were so bad in New York and Brooklyn that a Brooklyn judge, George Joyce declared:

The time is coming, and coming fast, when some jury or authority must take drastic action if our city doesn't want some of our schools run and operated by the law of the jungle.

The situation is a disgrace, a sad commentary, when our entire city, as well as our schools, teachers, principals and decent pupils start each day wondering if it will bring a clobbering, an assault or a raping from irresponsible, lawless young hoodlums.

Our schools used to be symbolized by the traditional "three R's." Now, a "fourth R" has been added—an R for rape.

A similar indictment was made by the grand jury that was called to investigate those conditions. Now, gentlemen, the average Negro in the Northern and Eastern States is a more ambitious Negro than his fellows who remain in the South. Generally, he has cleaner habits and generally he is better educated. If he can't be integrated in any large numbers in the schools here without violence and criminality, there is certainly no chance for any lawful and peaceful integration of the schools in the South. We don't think that the moral ideals of the Nation would require any such integration.

Now, coming to the bills that are before this committee, these bills provide for compulsory integration. I think they overlook the spirit and the intent of the 14th amendment as well as the spirit and the intent of the Supreme Court which was not to enforce integration, but to prohibit discrimination.

Of course, the argument might be made when you enforce integration you do prohibit discrimination, but that is a non sequitur insofar as the letter and spirit of the Constitution is concerned.

Title VII of the administration bill requires each State to prepare and submit to the Commissioner of Education a plan of desegregation. If no plan is submitted the Commissioner of Education will seek out local units with an offer of Federal funds for some plan or program of integration. Well, of course, this is a species of Federal bribery to local communities, and it cannot have any effect other than to pretty well destroy the morale of the particular State or community concerned.

Now, the Celler bill appropriates \$200 million for handouts and aid to the States and the school districts. I don't know who needs Federal aid in the South at this time. As a matter of fact, we think this idea of Federal aid to schools anywhere is a mistake. I suppose our Congressmen and Senators may vote for it. I don't know. There is some agitation for it everywhere. We don't need your help now. We needed your help when the South was prostrate, when it tried to rebuild its whole civilization and build schools for Negroes and whites, and in recent years we have spent large sums of money doing that very thing, but we don't need any help in Louisiana. We don't need any in Texas or Arkansas or Mississippi. Maybe they need it in New York or Pennsylvania, I don't know, but—

Mr. ROGERS. Then I take it that your position is that so far as Federal Government is concerned that they made a mistake in the enactment of Public Law 874, which is aid to school districts where there is impactment by an influx of Federal employees, that is 874, and also 815, which gives to school districts who are unable to finance their building, make loans to them, and together with that the National Defense Education Act of last session; that you feel that all of those pieces of legislation are without merit and should never have been passed by Congress. Is that your position?

Mr. WILKINSON. No, Mr. Chairman. There are exceptions to all rules, and those are very exceptional circumstances. When you open a military camp at some southern city, and usually it is out near some little small community, and send 30,000 or 40,000 soldiers and their families down there, there is, of course, a primary responsibility of the Federal Government to assist in taking care of the education of its own employees who have been suddenly dumped upon the community. We are not prepared in small communities to take care of situations of that kind. What I am speaking about, Mr. Chairman, are these large appropriations to give Federal aid anywhere and everywhere in the building and the maintenance and operation of schools generally. I am not talking about those isolated situations.

Mr. ROGERS. You have particular reference to the chairman's bill, Mr. Celler's bill, 3147, which in effect provides that if a school district cannot get the cooperation necessary to get the funds, and they want to operate it as a desegregated school, then certain sums would be made available. Now, that form of aid to education you are opposed to because it is given to a desegregated school.

Mr. WILKINSON. Sir, we have had more Federal aid and more Federal intervention in our local affairs than we think is desirable or necessary and certainly not in line with constitutional principles. We would like to see Federal aid turned backward instead of carried forward, and we simply don't want any. We are getting too much government from Washington, if I must be frank with you, Mr. Chairman.

Mr. ROGERS. I want to follow your reasoning. Now, we as lawyers understand and must respect court orders and decrees.

Mr. WILKINSON. Yes, sir.

Mr. ROGERS. And I assume that you as a lawyer would not object to the enforcement of any and all decrees entered by a court.

Mr. WILKINSON. That is being done now, Mr. Chairman. That is being done to prohibit discrimination in individual instances and in group instances also; that unless the law is changed, unless the Constitution is changed, or unless the Congress may by virtue of the 5th section of the 14th amendment and in view of present day experiences state that under existing conditions separate but equal facilities do accord with the Constitution where local communities find it necessary to make such provision.

Mr. ROGERS. Well, that brings up this question: Do I understand your interpretation of the section of the 14th amendment you have reference to would authorize the Congress of the United States to pass appropriate legislation which in effect would say that separate but equal schools should be the law of the land rather than the Supreme Court decision?

Mr. WILKINSON. I think like the Supreme Court said in that case of *Halvering v. Griffith*, you can certainly write law making findings which would cause the Supreme Court to reexamine its former decision. Congress has done that in many instances in the past. I am not going to try to write that bill. I know you are not going to do it, but I think it is something that the committee should explore.

Mr. ROGERS. Let's turn it around the other way. Is there anything wrong then with the committee writing some law which says that the Supreme Court decision of 1954 is correct and should be carried out?

Mr. WILKINSON. I don't think that is at all necessary. You already have a decision of the Court, and you have a decision of the Court implementing its decision and the decision is being implemented.

Mr. ROGERS. Well, now, the implementation, of course, can only arise when separate and distinct actions are filed at each school district throughout the United States. Would you ask that each school district or people in that school district institute the action in order to get the court decree in order to carry out what the Supreme Court says?

Mr. WILKINSON. That is exactly what you are going to do under these proposed bills, but the difference is in the approach. Here you are passing legislation to enforce compulsory integration where the Supreme Court and the Constitution says the thing is to prohibit discrimination, and the Court now has that matter under its own rule, and it is carrying it out. Now, whether that is being successfully done or not may indicate one of two things. Of course, it indicates local resistance, and it also indicates perhaps a lack of desire on the part of the Negroes in any particular community to go to any integrated school.

That exists in my own city of Shreveport. We have a better high school for Negroes. I will put it against the high schools in any city any of you gentlemen inhabit. It is new in equipment. It has a golf course connected with it. It has a swimming pool down the street, and it has the best of scientific equipment and construction, and I may say for *Look* magazine, that is one fine time it gave something to the South. It really publicized that school in Shreveport, but all of our schools are that way there, and the Negroes don't want to go to the white schools.

Mr. McCULLOCH. Now, Mr. Chairman, I would like to say that I find it impossible to agree with the distinguished witness in his statement that it is the purpose of these bills to enforce integration contrary even to the concept in the Brown case. I am sure that neither the language, the spirit, nor the intention of 4457 is directed to that end. 4457 has been described as the administration bill, which I introduced. It only seeks to implement the decision of the Supreme Court of the United States.

Mr. Chairman, I also must respectfully disagree with the witness' statement, if I interpret it correctly, when he said that title VII of 4457 would mandatorily require the Federal Government to give financial aid to integration of schools where that was not desired by either the State or the local school district. That is not my interpretation of article VII.

Mr. WILKINSON. No, sir, that is not the word.

Mr. McCULLOCH. That is not my interpretation of article VII. I don't believe that is the interpretation of a substantial number of excellent lawyers.

Mr. WILKINSON. You are correct, sir. The bill specifically says that the local units make application. We know what the effect of it will be. Like the Federal bureaus that have heretofore been formed, they will seek out applications from local units and offer them Federal funds.

Mr. McCULLOCH. I would like to further implement my thought in this regard. If the Supreme Court of the United States makes its decision the law of the land in any case, or under any series of conditions, and by reason of the law of the land being enforced in any school district or any State that isn't financially able to carry out the mandate which is the law of the land, I find nothing wrong with the Federal Government saying to the State, or to the school district which asks that financial assistance, it is available to you under certain terms and conditions. That is the principle of the public law mentioned by our distinguished acting chairman today, and it has been accepted by school districts in every State in the Union, where there is a defense installation that comes within the term of the law.

Mr. WILKINSON. I have every confidence that if the author of the bill were carrying out its purposes, he would administer it correctly and rightly and with justice. We don't feel that the final implementation of the purposes of these bills once they are put into motion is desirable at all, certainly not in our section of the country. Now, the Celler bill—

Mr. McCULLOCH. It would be my suggestion to the distinguished witness, and this is made in a constructive manner, I assure you, it would be my suggestion that the attack of the people who feel like the distinguished witness be made at places other than this; that it be made before the case is decided; before it becomes the law of the land.

Mr. WILKINSON. Yes, sir, I understand. Of course, my view is the Congress can, and I believe the Congress eventually will correct that error because it is going to find that those declarations made in *Plessy v. Ferguson* are just as true today as they were in 1896. That may cause the Court to reexamine its previous doctrine and if it does it should do it.

Mr. McCULLOCH. Then, Mr. Chairman, it is my understanding of the law that in every case, from the trial court to the Supreme Court, that the very persuasive argument the gentleman is making can be made again. The final decree, if enough of the Justices are convinced, may be in accordance with the argument that the gentleman has made.

Mr. WILKINSON. We think, sir, that the court of public opinion is the court that is going to finally change the Supreme Court decision. I will pass on. We could argue that for a long time, and I will pass on to other portions of the bill.

Mr. WILLIS. I am personally interested in discussion of these bills, and I know the ability of the witness as a good, sound constitutional lawyer. Certainly he has tremendous background as an attorney and civic-minded citizen. He is not from my area. He is not my constituent, but I know his background.

Now, I want to ask one or two questions. Within the four corners of these bills, period, because I want to understand them from a legal

and from a constitutional viewpoint, the 14th amendment, of course, prohibits discrimination. Now, if these bills were directed as carrying out the powers of the Congress within the 14th amendment, directed as it is intended against State action which brings about discrimination and would impose sanctions against State action that does bring about discrimination, I would be forced to support them irrespective of the consequences in my area or elsewhere.

Furthermore, I believe firmly that every qualified person throughout the United States has a right to vote, and I am never going to change my opinion on those things, but I am disturbed about how far can those goals be achieved at Federal level. Now, section 301 of the administration bill provides that every officer of election shall retain and preserve for a period of 3 years from the date of the election at which Federal officers are elected all records and papers which come into his possession relating to the election, and so on. How far can we go at the Federal level in that respect? I am making this statement, and I will wind it up with a question: We all know that article I, section 4 of the Constitution provides that the times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof, but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators. Now, I don't see in section 301 anything relating to the places of holding an election. I don't see in section 301 anything relating to the manner of holding an election. Thus far the times and places and manner of holding elections for Senators and Representatives have been left to the several State legislatures. We have never spelled out a specific method by any act of Congress that I know of that deals specifically with an intent to take that right away from the legislatures and to make or alter the regulations under which we have been operating. This section 301 therefore is not implementing a Federal law. We have not thus far tried to cover this field. If it be said that it has to do with the manner of holding an election, then I say that is hardly true because this speaks of possible election manners, what shall be done after the elections, and we are here imposing a Federal sanction making it a criminal offense for matters relating to elections already held under State law, and making it a criminal offense. Now, how far can we go in that area, and what about the Constitution. What is your opinion on that? I will be glad to have it implemented.

Mr. WILKINSON. We don't think that Congress has any power over the processes of registration or the maintenance of registration records or the operation of the office of registrars or voters in the various States.

Mr. WILLIS. And, by the way, let me say this: I am not opposed to these records being kept. Under all States' laws they are required to be kept for a certain time, that is for sure.

Mr. WILKINSON. It is simply no business of the Federal Government.

Mr. WILLIS. I am talking about the law.

Mr. McCULLOCH. Mr. Chairman, I would not attempt to give an answer carrying all of the justification for such a proposal, but I think it is entirely sufficient to say that section 2 of article I of the

Constitution would certainly justify the provision in my bill, the administration bill, which my distinguished colleague has mentioned. Section 2 of article I provides as follows, and this is not an exclusive answer—I give this as a matter for an opinion, Mr. Chairman.

Mr. WILKINSON. I have quoted that section in my statement.

Mr. McCULLOCH. I quote section 2:

The House of Representatives shall be composed of members chosen every second year by the people of the several States and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

Mr. Chairman, to determine whether or not that section of the Constitution is being complied with and whether qualifications of voters for President of the United States and for the Vice President, and particularly for members of the House of Representatives, shall be properly determined, we must have, and do have, under this section of the Constitution, authority to inquire whether or not those qualifications are being met in accordance with the Constitution.

Now, at the risk of prolonging my answer, I would like further to refer this subcommittee and the distinguished witness to the footnote to that section of the Constitution as found in Jefferson's Manual and the Rules of the House of Representatives of the 18th Congress, on pages 5 and 6 of that manual. We would rest at least one of the answers to the very penetrating question, Mr. Wilkinson, on that section alone.

Mr. WILKINSON. With all due deference to the statement made by the member of the committee here, I believe the Supreme Court of the United States is going to have to change its ruling before a bill like this can be considered as in line with the constitutional powers of Congress with reference now to the operations of the offices of registrars of voters in the several States.

I think probably the members of the committee—I believe it has been referred to before—I have a reference to the case here on page 20 of my statement, the case of *McPherson v. Blacker*, reported in 146 U.S. 1, and in that case the Court ruled:

In short, the appointment and mode of appointment of electors belong exclusively to the States under the Constitution of the United States. They are, as remarked by Mr. Justice Gray *In re Green*, 134 U.S. 377, 379 "no more officers or agents of the United States than are the members of the State legislatures when acting as electors of Federal Senators, or the people of the States when acting as the electors of Representatives in Congress." Congress is empowered to determine the time of choosing the electors and the day on which they are to give their votes, which is required to be the same day throughout the United States.

this is presidential electors. Of course it is a little different in the case of presidential electors and elections where Members of Congress are involved. "Congress is empowered to determine the time of choosing the electors and the day on which they are to give their votes" for presidential electors. That is all of the power of Congress that is stated in the Constitution.

Mr. McCULLOCH. Just a moment. You mean in that particular field or generally? If you mean generally, I am afraid that I could not agree with that statement.

Mr. WILKINSON. That is a statement of the Court, sir. That is not my own opinion, except I agree with it.

Mr. McCULLOCH. If they are talking about presidential electors, yes sir. But I would not, and I am speaking without preparation now—

Mr. WILKINSON. There is very little difference of reference to the qualifications of voters and the qualifications of voters for electors and the qualifications of voters for Senators and Congressmen. There is a little difference in the power of the Congress with reference to the time, the manner and the place of elections or the time for Congress and the matter of the time of the choosing of electors and the day on which they are to give their votes.

In *Fitzgerald v. Green*, reported 134 U.S., page 777, the Supreme Court said, and I quote: "The State has the power to punish for illegal and fraudulent voting for presidential electors" and the Court held that that was the rule because the States had the exclusive—well, that is exclusive power over illegal and fraudulent voting because the State was granted by the Constitution exclusive power in that field.

Mr. WILLIS. I would like to ask one more question.

Mr. ROGERS. Yes, sir.

Mr. WILLIS. Now I would like to ask this question with regard to section 1509 of the bill, which is titled in this way: "Obstruction of Certain Court Orders," and that is the description of it. The acting chairman questioned you whether you would oppose legislation which would carry out court orders or prevent the obstruction of court orders, but that is not what this bill does. It says, "whoever corruptly, or by threats or force, willfully prevents, obstructs, impedes or interferes with, any order, or decree of a court of the United States" in three areas only, "shall be fined not more than \$10,000," and so on. In other words, this bill selects civil rights violations for dignifying court orders, with a law to preserve the sanctity of the court order.

Now do you think it is fair to or even constitutional to limit the sanctification of the court orders in certain areas? Why not spell it out and omit the selected areas 1, 2, 3 and let it read, "Whoever obstructs a court order shall be fined not more than \$10,000 or imprisoned not more than 2 years," period?

Mr. WILKINSON. This principle, if the obstruction of a court order should be such a crime, in the first place it ought to apply to more serious incidents than that which is delineated in this bill and in the second place, assuming now that the Congress has the right to enact a law of this kind, the penalty prescribed is far too severe for an ordinary racial dispute that occurs in connection with school integration. It would seem that threats and intimidation, conspiracy, mob violence and all of that sort of thing done to persons and properties in labor disputes and in many other areas of human relations are far more of national concern than the matters that seem to be covered by this particular bill.

Mr. McCULLOCH. Mr. Chairman, I would like to interrupt there. Again I cannot find disagreement with the distinguished witness. I feel just as he does about that question and I would hope that there would be courage in the Congress to provide the same penalty for the same wrongdoing regardless of what area it might cover.

Mr. WILKINSON. Well, that is a very fine statement. That is very correct. I say assuming that you have the power to do what you propose to do.

Mr. ROGERS. Are you aware that the Supreme Court recently affirmed a conviction of a man for 15 months in jail for not answering a question of the grand jury? That is a recent Supreme Court decision.

Mr. WILKINSON. Yes, I understand that.

Well, let me express a few views that go a little bit further than those of the author of this bill. We are not suggesting that the Federal courts unduly restrict or penalize labor; we are not suggesting that they penalize other groups in matters of this kind. We believe that primarily the maintenance of law and order is the function of the States and there again we don't like to see Federal interference in these matters, but I want to pass on—

Mr. McCULLOCH. I would like to interrupt the witness again because I agree with him so completely in that statement. I believe that in every field of activity where there is the authority and the will—I repeat—and the will—of local authorities to enforce the law, that they should be left to do it. However, in the fields where the local authorities have not the authority to enforce the law or to prevent the obstruction of justice, when it is in the field of Federal activity, then I think there is justification for Federal activity.

I want to keep it within its narrow confines because if there be a continuation of the obstruction of justice, sooner or later—I am not referring to the field of integration—sooner or later there is no government by law; there is government by anarchy.

Mr. WILKERSON. You are entirely correct, sir, in that statement, but when the Federal Government takes over in little assault and battery cases and integration disputes that occur in connection with the schools, I don't think it is any of its business unless the local authorities should be unable to—Now there is nothing in here that says in the event that the local authorities are unable to or fail and neglect to maintain law and order that the Federal Government shall come in in matters of this kind. That probably would be the only excuse for the Federal Government to come in if it had any right to come implement and enforce without obstruction its judgments and decrees, irrespective of the local people, whenever it is necessary to do so.

Let's see what this bill does. Let's see what it does now. This bill provides that whenever—I am shortening it now and if I misstate it, why pardon me. It is written out and the committee knows what it is, but I am trying to make a short statement. It provides that whenever any individual or group, by threats or force, obstructs or attempts to obstruct the rights of another individual given by a court order, regarding admission to schools, shall be subject to a crime, a fine of \$10,000 and imprisonment for 2 years.

Now neither individual in a case of that kind needs to have been any party to the court proceeding. The alleged offense may have nothing to do with the court officials or the court employees. The offense may have nothing to do with the machinery of the courts or the processes of justice as distinguished from the declaration of rights. With a broad sweep now, with all due deference to the author of the bill, this bill covers every racial disturbance that would involve a pupil in an integrated school, with the exceptions mentioned in the bill—it doesn't apply to teachers and school pupils themselves.

Now I want to pass on. I am taking up a lot of time and I intended to be here sooner than this.

Mr. WILLIS. Mr. Chairman, this matter comes to my mind, that this approach on civil rights legislation is a complete turnabout of the one advocated by the Department of Justice when we first enacted civil rights legislation. At that time it was the considered judgment of the Department of Justice that it would not be in the public interest to impose criminal sanctions that were too severe. Admittedly it was the view that the Federal Government should not do that. And the whole burden of the argument at that time was that we should not inject the Federal force of the Federal Government in making crimes against third parties not parties to the law suit.

Now I realize that the argument might be made, it might be sincerely attempted to be justified that events of force have changed that view, whereas the last time the administration and the Attorney General was completely opposed to the imposition of criminal sanctions and assisted by what the gentleman just said now, that was the argument of the other side.

Now in a period of 2 years they want to make crimes of actions of people not parties to law suits and I know it can be debated both ways, that events now have proven the justification for the change, the position, but the point I make is it just goes to show that we better not go too far or too fast in this whole business.

Mr. WILKINSON. The bill creates an awfully large net that is going to catch a lot of innocent fish.

Mr. McCULLOCH. Mr. Chairman, if I might. Since the observation of Mr. Willis is pertinent at this point, I would like to read what the Attorney General, Mr. Rogers, had to say about that change of opinion in the Department of Justice. I am now quoting from page 4 and possibly from page 5 of the statement of the Attorney General which he made before this committee on March 11, 1959.

Mr. WILLIS. By the way, I am not familiar with it and I am interested in hearing it.

Mr. McCULLOCH. I now quote:

The Department's study shows that there is doubt as to whether the existing authority of the Federal courts is sufficient to impose effective sanctions against members of mobs—or against others who, by threats, or force, willfully prevent, obstruct, impede or interfere with the exercise of rights or the performance of duties under a school desegregation order of a Federal court. The purpose of this proposal is to remove that doubt.

The reason for the doubt in the present law is that the contempt power comes into play only when it has been found by the court that the persons charged with contempt disobeyed or resisted the decree of the court. Under Federal procedure, a person cannot ordinarily be held in contempt unless he was either a party against whom the decree was issued or was acting in active concert with a party.

I continue the quotation:

In the example I have given, obviously a desegregation order cannot name the members of a mob not yet formed. Moreover, in the ordinary situation a mob is not in concert with the school board or other defendants who, whatever their personal sentiments, invariably recognize the authority of law.

And I continue the quotation:

Let me illustrate the inadequacy of the contempt power by referring again to the resistance to an order of desegregation in the Little Rock case. A mob was incited to resist the orders of the court concerning the operation of the school.

This conduct did not involve contempt of the decree which ordered the school desegregated since the persons responsible were not parties to that decree, and there was no proof that they acted in concert with those named in the decree. Of course it would be possible to return to court to obtain a new injunction against mob leaders. Then it would be necessary to prove subsequent acts by those named in the new injunction in order to establish a contempt. Obviously, this is a time-consuming procedure and is of no practical use in producing the prompt action needed to break up a mob which may be threatening the safety of children. It is for these reasons that we believe that additional legislation is needed to deal with individual or concerted action seeking to obstruct orders of the court.

There are two more paragraphs, but I do not wish to go into them.

Mr. WILLIS. Mr. Chairman, will you indulge me one minute?

Mr. ROGERS. Yes, sir.

Mr. WILLIS. That is the first time I have heard the reason for a change of approach. Now I am never going to get on defense of this legislation by trying to prevent mob violence or taking the law into individual's hands. You are never going to place me in that position because I don't believe in it. But, and this thought occurs to me and I want to study it more, but now that I know the reason for the change in it, this occurs to me: For some reason or another throughout the history of our Republic when we went through periods of hysteria, mobs now and then, all over the Nation, of all types and nature and description, it is odd indeed for me—it is hard indeed for me to accept as final this argument containing two or three paragraphs that you must be so smart today for the first time and we must rush into making crimes in connection with enforcement of court orders. Are we that smart? Don't you think this thing has been thought of over the years by Members of Congress? Somehow we got by without it through the years, but now it is asked for.

I say this: In my opinion we better think it over a little bit more where, in one section of Congress, we have the Attorney General saying criminal sanctions are horrible; they won't do, and—I can paraphrase the testimony of Attorney General Brownell that criminal sanctions are more conducive to inciting hysteria because you frequently accuse public officials and so on and he said that would be completely wrong.

Of course we had Little Rock, but nevertheless over a period of 2 years now we are eating the crow and they said we were all wrong 2 years ago; now we better go in the field of criminal law.

I didn't mean to be so firm, but those are my preliminary views and I am going to develop some more.

Mr. McCULLOCH. Mr. Chairman, since there is an important discussion going on on the floor on the section of the bill, I would like to take the time of the subcommittee to read two more paragraphs which touch on at least one of the things that Mr. Willis just mentioned. I am quoting now from the paragraph on the fifth page of Attorney General Rogers' statement.

The relevant obstruction of justice statute also appears to be inadequate. It (18 U.S.C., sec. 1503) punishes whoever (1) "corruptly, or by threats or force, or by any threatening letter or communication," intimidates or endeavors to intimidate a witness in a U.S. court or before a U.S. commissioner or any grand or petit jury, or any official in the discharge of judicially connected duties; or (2) injures a party or witness on account of his testimony in a Federal judicial proceeding or a grand or petit juror on account of a verdict or indictment; or (3) injures an officer on account of the performance of judicially connected duties; or (4) corruptly or by threats or force obstructs or impedes the "due administration of justice."

And I continue with the last paragraph that I shall quote, Mr. Chairman:

The use of force to obstruct an existing desegregation decree would be covered by this statute, if at all, only if it could be considered to obstruct or impede the "due administration of justice." That phrase has been narrowly interpreted to be qualified and limited by the acts specifically enumerated in the preceding portions of the statute.

Mr. WILKINSON. We think that goes just about as far as Congress ought to go.

Now I want to call your attention—I made the statement that this created an awfully big net that would catch a lot of innocent fish.

The Attorney General made reference to mob violence at Little Rock. At Little Rock there was a large crowd of curious people. There was no organized mob; there was no act of violence on the part of anyone. The only act of violence came from the butts of the rifles and the bayonets of paratroopers that were sent there. A man standing in his own front yard in his shirt sleeves looking down the street just to see what was going on was bayoneted by a paratrooper and, of course, this law can affect innocent people in that way. It is an awfully big net.

I want to make one other comment. I want to get through quickly; there is another gentleman waiting and I don't want to take too much time of the committee.

In the bill by Mr. Celler, it authorizes injunction suits in the name of the United States against any person or group hindering or threatening local authorities from giving any person or group of persons equal protection of the law and of course that is followed with several penalties.

Now referring to that, as well as to the other bill, what does the average person know about the equal protection of the law or the orders that have been rendered by the courts of the land. This bill would refer him to a comprehensive law library and to a competent counsel on constitutional law to find out whether or not his conduct is to be subject to prosecution by the Attorney General. This is sort of like the practices of Caligula, who published the law but he wrote it in very fine print and he posted it up high in the corridor where nobody would see it or copy it.

The ordinary citizen doesn't know what equal protection of the laws means, and, in fact, the ordinary lawyer doesn't know that either.

Now that brings me to this final point. This is directed at individuals. The real intent and purpose of the 14th amendment is directed at State action and the decision of the Supreme Court very consistently held that it does cover State action and is not intended to cover the action of individuals.

I have taken more time than I intended to. I think the committee has taken some of my time. I appreciate the opportunity of appearing before you this morning.

Mr. ROGERS. Counsel has one or two questions.

Mr. PEET. Mr. Wilkinson, do you know any of the specifics about the voting situation down in Louisiana?

Mr. WILKINSON. No, I do not. I only know this. Let me say this: We have been purging our rolls. A number of white people have

been disqualified and a larger number of colored people have been disqualified as voters because they do not measure up to the qualifications of the voters, the qualifications for voters.

Now voting is not a right of everybody. Of course we all know that and irrespective of the fact that the President of the United States said we are not going to have any second class citizens, I think we all know we have first class citizens, second class, third class, fourth class and then a whole group of people that you can't even classify at all and we have tried to get the second class people off of our rolls in Louisiana. Whether they have gone further than they should have gone is a matter of individual investigation. I don't know.

Mr. PEET. Would you agree with President Eisenhower's statement that the right to vote is a cornerstone of sovereign government?

Mr. WILKINSON. The right to vote by a qualified voter; yes. We don't want to keep the Negro from voting. That is; not in my community. I can't speak for every State in the South. We don't want a great mass of what we consider to be unqualified voters.

Mr. PEET. How many people are registered in your community?

Mr. WILKINSON. The colored people who are registered?

Mr. PEET. No, just how many people generally? How many of all races are registered?

Mr. WILKINSON. You mean in the State or in my particular community?

Mr. PEET. Well, if you have the figures for the State, that would be fine, or if you know the information regarding your own community, that would be fine also.

Mr. WILKINSON. I don't have those figures. I am sorry. I didn't come prepared to give information on that subject.

Mr. PEET. Could you tell us has there been any increase in Negro voter registration in recent years?

Mr. WILKINSON. Any increases? Oh, yes, very substantial increases in Negro voters, particularly in cities—New Orleans, Freeport, Monroe, Alexandria, Lake Charles and other places.

Mr. PEET. And yet you are purging the voting registration lists at this time?

Mr. WILKINSON. I suppose I shouldn't use the word "purge." The registrations have been examined and there have been voters, both white and colored, that have been stricken from the rolls because they were ineligible for registration.

Mr. McCULLOCH. Well, Mr. Chairman, of course if the same test is applied to every voter who is on the registration roll, there can be no objection if the rolls are regularly purged in accordance with law, if that is the accepted election practice.

Mr. WILKINSON. Yes.

Mr. McCULLOCH. And it is my opinion, and I could give that opinion unqualifiedly, if the rules are applied equally to everyone, without regard to race, color or nationality, there will be no one finding any hardship under any term or provision of 4457 with respect to voting.

In my own hometown we have registration and pursuant to law we purge or check the rolls at regular intervals, but the rules by

which the purging is done applies the same to every person without regard to race, nationality or religion or other such matters.

Mr. WILKINSON. That is the ideal. Of course we have human nature to deal with and laws can't change human nature and court compulsion is not going to change human nature. I won't say that in the purging of the rolls the Negro is discriminated against. Perhaps he is. Perhaps that is our human nature, to lean toward favoring the white and keeping the colored man off the roll. I don't say that is true. I realize that it could be true.

Mr. PEET. Have you heard of any instances of official or nonofficial statements in your State categorically asserting that an organized movement is afoot to reduce the number of Negroes registered to vote in Louisiana from something like 90,000 down to 10,000? Have you heard any statements of that nature?

Mr. WILKINSON. I don't recall any official statement of that sort.

Mr. PEET. Any unofficial statement?

Mr. WILKINSON. I don't recall any such statement. It may have been made. I just don't know about it.

Mr. ROGERS. Thank you, Mr. Wilkinson. We certainly appreciate your statement.

Mr. WILKINSON. I certainly appreciate your courtesy, Mr. Chairman.

Mr. ROGERS. At this time we will place in the record the letter from Governor Hodges of North Carolina to the Honorable Paul Kitchin, a Member of Congress.

(The letter is as follows:)

STATE OF NORTH CAROLINA,
GOVERNOR'S OFFICE,
Raleigh, April 29, 1959.

Hon. A. PAUL KITCHIN,
Member of Congress,
House Office Building, Washington, D.C.

DEAR CONGRESSMAN KITCHIN: This is in reference to our previous conversations concerning the civil rights proposals now pending before the House committee. I appreciate your courtesy in furnishing copies of H.R. 3147, H.R. 3148, and H.R. 4457. I have considered these bills carefully, and have reached the conclusion that extremely serious questions are raised by each bill.

As you know, the North Carolina General Assembly is currently in session and this together with other pressing matters has prevented my making a personal appearance before the House committee to express my views on these bills.

However, speaking as a State Governor and speaking on behalf of the overwhelming majority of the citizens of North Carolina, I would suggest that the Congress would act in the interest of the Nation as a whole if it declined to pass punitive and extreme measures dealing with the racial problem.

The decisions of the U.S. Supreme Court relating to racial mixing in public education have, regardless of any citizen's personal views concerning the objective of those decisions, produced extreme dissension and extreme feeling between large sections of the United States. It is of course common knowledge also that the decision of the U.S. Supreme Court in changing the interpretation of the Federal Constitution have produced domestic crises more critical than anything that has happened to our Nation since the conflict between the States almost 100 years ago.

Intemperate and ill-advised Federal legislation, no matter how laudable the objectives of those who introduced the legislation, can only serve to aggravate the national turmoil our country is now enduring because of the race question. In my judgment, I must place the three bills above referred to in the category of ill-advised Federal legislation.

The State of North Carolina has striven mightily and sincerely since May 17, 1954, to maintain public education, to maintain public support for public education, and to maintain respect and confidence in the Federal Constitution and in the Federal Union, of which we are all grateful and loyal citizens.

If it is permissible for you to do so, I should appreciate your having this letter placed in the record of the committee hearings on these bills so that the record will show the views I have expressed in my personal as well as official capacity as Governor of North Carolina.

Sincerely,

LUTHER H. HODGES.

Mr. WILKINSON. Before you take up the next witness, may I give you copies of these statements? They have disappeared and Mr. Willis will have six additional copies. I hope the members of the committee will read it. I think it is in good order.

Mr. ROGERS. Thank you.

Our next witness is Mr. Joseph Rauh, vice chairman of the Americans for Democratic Action, who sat here yesterday, apparently, and today, and I trust he recognizes the situation. We are glad to hear from you, Mr. Rauh.

STATEMENT OF JOSEPH RAUH, VICE CHAIRMAN, AMERICANS FOR DEMOCRATIC ACTION, ACCOMPANIED BY WILLIAM TAYLOR, LEGISLATIVE REPRESENTATIVE, AMERICANS FOR DEMOCRATIC ACTION

Mr. RAUH. Thank you, Mr. Chairman. This is Mr. William Taylor, the legislative representative of Americans for Democratic Action. He is accompanying me.

I am appearing this morning, however, not for the ADA alone, but on behalf of the major civil rights organization which include the leading Negro groups, the NAACP and others. They include the leading Jewish groups, the leading labor groups in this field and they have asked me to testify on their behalf in rebuttal to the testimony that has been given against the bills here, so I have the honor to represent here this morning a great many Americans who feel deeply about the need for civil rights legislation at this session of Congress.

I would also like to express my gratitude to the committee for the leadership which it is taking in getting legislation in this area. Possibly the wisest thing to do would be to put the statement in the record at this point and then speak extemporaneously from it. May I do that?

Mr. ROGERS. You have permission to have your statement inserted in the record at this point and then you may proceed in any manner you see fit.

(The statement is as follows:)

AMERICANS FOR DEMOCRATIC ACTION

Washington, D.C.

(Mrs. Page H. Wilson, Director, Public Relations)

CIVIL RIGHTS PROPONENTS REBUT SOUTHERN STAND ON SCHOOLS, DEMAND CONGRESSIONAL ACTION FOR DESEGREGATION

Attached is full text of testimony which Joseph L. Rauh, Jr., delivered this morning before Subcommittee No. 5 of the House Judiciary Committee on behalf of 20 civil rights organizations.

Rauh, Washington attorney, is civil rights and civil liberties vice chairman of Americans for Democratic Action.

TESTIMONY OF JOSEPH L. RAUH, JR.

My name is Joseph L. Rauh, Jr., and I am vice chairman of Americans for Democratic Action in the field of civil rights. I am appearing this morning to give rebuttal testimony on the civil rights bills before your subcommittee on behalf of the following 20 organizations:

- American Civil Liberties Union
- American Jewish Committee
- American Jewish Congress
- American Veterans Committee
- Americans for Democratic Action
- Brotherhood of Sleeping Car Porters
- Improved Benevolent and Protective Order of Elks
- International Union of Electrical Workers
- Japanese American Citizens League
- Jewish Labor Committee
- National Alliance of Postal Employees
- National Association for the Advancement of Colored People
- National Council of Negro Women
- The Workmen's Circle
- Transport Workers Union of America
- Unitarian Fellowship for Social Justice
- United Automobile Workers
- United Hebrew Trades
- United Rubber Workers
- Women's International League for Peace and Freedom

At the very outset, I would like to express the appreciation of all of these organizations to the subcommittee for this opportunity to offer our further comments on the civil rights bills now before you.

I would also like to express the gratitude of these organizations to Chairman Celler for his leadership in the field of civil rights. We look to you, Chairman Celler, and to the members of your subcommittee, for the continued leadership which will make possible, before the adjournment of Congress, the enactment of a law that is civil rights in substance as well as in name.

Mr. Chairman, during the course of the past few weeks you have heard the bills before this subcommittee assaulted in the most intemperate terms by State Governors, State attorneys general, Members of this Congress, and others. But paradoxically, these witnesses have made the case for civil rights legislation in a way that its proponents never could. For not one of the officials who testified here has acknowledged the basic truth that the 14th amendment to the Constitution, as interpreted by the Supreme Court in *Brown*, is the law of the land.

If only a few of these officials had been faithful to their oaths of office and had declared themselves in favor of good faith compliance with the decision of the Court, the need for H.R. 3147, introduced by Chairman Celler, might never have arisen. Instead, they have nurtured among their constituents the belief that decisions of the Supreme Court are not the law of the land and somehow can be disobeyed with impunity. They have thrown down the gauntlet; they have made clear that they will never comply unless and until the Federal Government takes action. They have proved the need for H.R. 3147.

The lines have been drawn by the opponents of civil rights legislation. There can be no middle ground on the constitutional rights of Negro children to attend desegregated public schools. There is no "moderate" position on the propriety of defying decisions of the Supreme Court.

The Douglas-Javits-Celler bill provides the only unequivocal answer to this challenge to law and order. Making it clear that defiance cannot be countenanced, the bill also provides the means for the peaceful and orderly transition to a desegregated system of public schools. Our country needs this bill and needs it right now.

Some of the witnesses before this committee have argued the merits of segregation as though they were in the Supreme Court and the case were being presented for the first time. There is unconscious irony in many of the things they have said. They have boasted of efforts to provide "separate but equal"

facilities in a way they never did or could have before the death knell for segregation had sounded.

They have pictured the South as a land of rare tranquility before May 17, 1954, and have asserted that the Negro in the South really does not want desegregation. The testimony of Negro citizens before this committee is a more eloquent refutation of this falsehood than any I could provide. They represent thousands in the South who have braved intimidation, economic reprisals, and threats of physical violence to secure vindication of their constitutional rights. And, if the officials of Southern States are so certain of their thesis, one may wonder why they have found it necessary to pass hundreds of "laws" to deter Negro citizens from asserting rights granted by the Constitution, to penalize those who provide legal assistance in securing those rights, and to punish any local official who might have an inclination to obey his oath of office. (You may have noted that while many southern officials claimed expertise in the field of race relations simply because they came from the South, they made a distinction in talking about their "constituents"—they "knew the Negro" but they "represented" the white.)

I shall not dwell on the "legal" arguments presented to the committee by the opponents of civil rights legislation other than to say a word about each of four arguments they have presented:

(i) The suggestion that the 14th amendment is not a part of the Constitution is rebutted by almost a century of history and requires no answer this late in the day.

(ii) The suggestion that the 14th amendment does not apply to local education is rebutted by cases going back to the last century. The holding of both State and Federal courts that public schooling must be equal for Negroes and whites was a continuous and direct application of the 14th amendment to local education.

(iii) The appeal to precedent is no more determinative here than in any other field of constitutional right—where *stare decisis* has always been given less weight than in other fields of law. Indeed, if precedent were given the exalted role urged here, we would not need a court at all, but only a team of research assistants to determine what earlier courts thought about a given matter.

(iv) The suggestion that the Supreme Court's decision is not the law of the land and that States or individuals have the right to interpret the Constitution for themselves is a simple plea for anarchy in America. There can only be one final umpire on the Constitution and, the umpire having spoken, all are bound by its interpretation.

There is a great irrelevance to all of these "legal" arguments except for the fact that they represent the attitude of those charged with compelling obedience to the law. Their defiance apparently is not even limited by consideration for the welfare of all their constituents. The tragic course of events in Virginia and Arkansas has provided no lesson and you have heard witnesses express a willingness to bar the doors of all their schools. Thus we are faced with a threat that every Deep Southern State will follow the Virginia pattern of "massive resistance" as long as it will work, and then "devious resistance" *ad infinitum*.

All of this indicates the depth of responsibility of Congress to implement the 14th amendment and the decisions of the Supreme Court. It is further proof that only a bill which contains the title VI provisions of H.R. 3147 can be effective in meeting that responsibility.

You have been told that title VI, by authorizing the Attorney General to seek enforcement of the right to an unsegregated education, while leaving other rights to private vindication, itself constitutes an unequal application of the law. We would suggest, first, that the vesting of equitable enforcement powers in the Attorney General to protect certain categories of rights has ample precedent. The enforcement of our antitrust laws and other regulatory statutes by injunctive proceedings rests upon the well-founded belief that the property rights of citizens in these areas would not be adequately protected by criminal sanctions or resort to private remedies.

But even if there were no such ample precedent, there is a very real basis for distinguishing the constitutional right to equal protection of the laws from the mass of other rights. No right has been so prevalently and consistently disregarded as the right of Negro children to obtain a public school education free from discrimination because of race. At no time during our history has the full power of a group of States been so mobilized to deter citizens from

exercising rights declared under the Constitution and to prevent others from providing the legal and financial assistance necessary to implement them. If ever there was an occasion for the exercise of Federal protective powers to secure the rights of citizens, it exists now.

You have also heard some vague suggestions that title VI is unconstitutional because it reaches individual as well as State action. Now, of course, the reach of the 14th amendment extends only to "State action." But as you know, there is a basis, well founded in law, for reaching the misdeeds of individuals in certain cases. Allow me to give just three examples:

1. An individual who acts under color of any State statute, ordinance, or regulation to deprive persons of the right to equal protection of the laws is engaging in "State action" within the meaning of the 14th amendment. This would be true of the bus company or the bus driver who segregates Negro passengers pursuant to a State statute or regulation.

2. An individual who conspires with State officers to deprive persons of rights guaranteed by the 14th amendment is engaging in "State action."

3. An individual who seeks to interfere with the obligation of State officials, sworn to uphold the Constitution, to implement rights under the 14th amendment may be restrained from such interference by the Federal courts.

Title VI of H.R. 3147 would permit injunctions against individuals in all these situations. But this is only a part of what title VI seeks to accomplish. The primary purpose of title VI is, of course, to aid in the enforcement of constitutional rights which are being denied by the actions of State officials. It is the very State officials who came before this committee and refused to concede that the Brown case was the law of the land, against whom the provisions of title VI are primarily directed. In order to effectuate the right to the equal protection of the laws, it may be necessary to reach the action of individuals upon occasion. But this would occur only in the limited situations I have described above, where there is a firm basis in constitutional law.

Title VI is the indispensable element in any meaningful civil rights legislation. But it should be noted that the other titles of the Douglas-Javits-Celler bill are an expression of hope that techniques of technical assistance and persuasion may bring about good-faith compliance without need to resort to title VI. These titles constitute an effort to mobilize the constructive resources of all citizens and all branches of Government behind the law of the land. You have heard officials of Southern States deride these titles as bribery. But the use of an epithet does not tell us why it would not be helpful to ask all of our citizens to contribute their tax dollars in an effort to provide the machinery for a just and peaceful solution to a problem which, while limited geographically, is clearly of nationwide concern.

We believe titles II and III of H.R. 3147 to be far superior to comparable provisions in H.R. 4457 in several important respects. H.R. 4457, the administration bill, fails to take cognizance of indications that responsible local officials in Atlanta and elsewhere are willing to take forthright action to carry out their constitutional duties. Secretary Flemming has told this committee that under the administration bill no technical aid can be rendered to local agencies unless the State consents or disclaims responsibility for desegregation by adopting a local option plan. In other words, Secretary Flemming would bar the Federal Government from aiding local communities which are willing to comply with the law of the land and which need the aid the most just because of State opposition to desegregation.

In contrast, H.R. 3147 provides for financial aid to local governments which undertake plans for desegregation, whether or not the State maintains an intransigent attitude.

We believe that H.R. 3147 should be buttressed by title I of H.R. 4457, dealing with the obstruction of justice.

We believe also that title III of H.R. 4457, requiring the retention and production of records relating to general and primary elections involving candidates for Federal office, would be a most valuable addition to H.R. 3147. The mass disenfranchisement of Negro citizens in Mississippi and Louisiana and the recent events in Alabama have graphically demonstrated the need for such a provision. We are firmly convinced that title III for the protection of voting rights is by far the most substantial contribution that the administration has made this year in the field of civil rights, and we strongly urge its adoption.

The constitutional objections levied against this voting-records provision are both vague and frivolous. Any lawyer who doubts the authority of Congress to regulate the conduct of primary elections must have excised conveniently from his memory the decisions of the Supreme Court in *Smith v. Allwright* and *Terry v. Adams*. Contentions that Federal authority in this area does not extend to individual action, in addition to being irrelevant to this provision which regulates only State action, overlook the well-established power of Congress to protect voters from violence and elections from corruption and fraud.

Mr. Chairman, the consequences of the kind of defiance this committee has witnessed at these very hearings can be grave indeed. When Senator Eastland counsels disrespect for law, when witnesses here abuse the Supreme Court, and when the "leading citizens" of the State form White Citizens Councils to deprive Negroes of their constitutional rights, the seeds are sown for the tragic event which took place in Mississippi last week. There is a bitter irony in the fact that at the very moment the attorney general of Alabama was deriding the need for antilynching legislation and abusing the Supreme Court's decisions, the mob was forming in Mississippi.

The very horror inspired by defiance of law numbers its days. Everyone must recognize that massive and continued defiance of law is a matter of grave concern to all citizens of a nation governed by law. I believe there is general awareness of the fundamental duty of the Executive to assure that this defiance will not be allowed to continue, and of the responsibility of Congress to provide the means for the performance of this task.

Despite the last-ditch efforts of the segregationists, the question is no longer whether we shall desegregate our public schools, but how and when. And we may well ask ourselves what point there can be to dissipating our physical and moral energies in a protracted struggle that cannot reflect any credit upon our dignity as a Nation.

The Douglas-Javits-Celler bill would enable Congress and the Executive to fulfill their responsibilities in a forthright and intelligent manner. It is the one specific remedy yet proposed to cure the cancer of segregation which infests our society.

The civil rights organizations look to this committee as the crucial forum. If H.R. 3147 is reported out with dispatch, the wheels will have been set in motion for the passage of the Civil Rights Act of 1959.

Today is the last day of April. If the Judiciary Committee reports out a bill in early May, it should reach the floor for debate before the end of the month. If, then the House has passed the bill in May or early June, the Senate Judiciary Committee still has not acted, the House bill can be taken up directly on the floor of the Senate in time for enactment before the end of the session.

But if this committee does not act quickly, we cannot look for the initiative to come from anyplace else. The fate of law and order is in your hands.

Mr. RAUH. Thank you, Mr. Chairman.

During the course of the past few weeks you heard before this subcommittee an assault in most intemperate terms upon the law of the land. You heard it this morning. Mr. Wilkinson is still arguing the merits of the Supreme Court decision.

Members of the committee, the time has come to stop arguing the merits of the Supreme Court decision and to start enforcing it.

I want to say in blunt language that the southern whites before this subcommittee have demonstrated the need for legislation. They have proved our case as we never could have. If the Governors you have heard and the attorney generals you have heard, the lawyers you have heard, had come in here and said "We are going to try to comply with this decision, give us a little time to comply, give us some help in complying," that would have been one thing; but they come in here and say "We will not comply." They have come in here and thrown down the gauntlet to this subcommittee. I say and I submit in all sincerity that the case for the legislation before this subcommittee has been proved by its opponents. They have made clear that they will never enforce the law unless you do.

The responsible State officials have made clear that they will never do their duty under the Constitution. They have made it clear they will never act unless this committee acts. By so doing, I say, they have proved the case as I never could have, as Roy Wilkins never could have, as Clarence Mitchell never could have, as all of the other groups never could. They have proved it for us and I think that the committee will recognize this as it goes back over the testimony.

Mr. Chairman, the organizations support with all their deep conviction H.R. 3147, introduced by Mr. Celler, and known generally as the Douglas-Javits-Celler bill, since it was introduced into the Senate by a bipartisan coalition of nearly 20 Senators. We believe that this bill will provide for the orderly transition to a desegregated system of public schools. Our country needs this bill and needs it right now.

I find it sad, if I may say so, that we are still arguing the merits of segregation, and I found it even sadder, as I sat in this hearing room this morning, to hear a witness quote the inferior race part of the Plessy case.

In 1959, in a world one-third colored, it has hurt my feelings as an American citizen to hear another American citizen refer to our Negro brothers as an inferior race. I don't think too much can be said about it. The people who use that intemperate language must someday realize that we are all God's children and that such language can only hurt the cause of the United States in this troubled world.

I was hurt, too, as a citizen of Washington, D.C. by the assertions that were made here. I think the magnificent study made by the Washington Post in the last few months fully evidences the fact that District desegregation has not only worked, but that it was a great triumph of good will; that what we have had in the District is a marvelous success and that the incidents that occurred are no real price for the advance that has been made. And as a District resident I resent the use of an old report, politically motivated, instead of the new studies that have been made that demonstrate the great success of the city of Washington in the integration of public schools.

Now, Mr. Chairman, I am a lawyer and I guess that is why I was chosen to act as the rebuttal witness here. I would just like to dwell with a sentence each on five legal arguments that have been made against the Supreme Court decision.

First they say the 14th amendment is not a part of our Constitution, but a century of history rebuts that and a century of history, even a page of history, as Justice Holmes said, is worth a volume of logic.

Second, they say that the 14th amendment does not apply to local education. But the Supreme Court of Justice Earl Warren didn't start the idea that the 14th amendment applies to local education. That goes back to the last century because the separate but equal doctrine recognized the applicability of the 14th amendment to local education. It is a different application of the 14th amendment than we have now, but it was an application as definite and certain. Therefore I say that we have had a century of that, too.

Third, they make the old appeal to precedent. I don't think Mr. Wilkinson really meant it when he said this morning that there were no instances where the Supreme Court had overruled earlier decisions based on the Constitution. Justice Brandeis once made a list of

cases in this area where I think he listed—my recollection is it was somewhere between 60 and 80 cases where the Supreme Court had actually overruled earlier decisions in the constitutional area. Indeed as a result of this study the Court made clear that *stare decisis* does not have the same effect in constitutional areas as it does in other areas of law.

Fourth, there is a suggestion rampant in these hearings that the Supreme Court decision is not the law of the land and the States or individuals have the right to interpret the Constitution for themselves.

The chairman's question this morning was directed at such a suggestion. In simple language, this is a plea for anarchy. To say that the individual or the State can set his view up against the decision of the Supreme Court as to what the 14th amendment means is nothing less than a plea for anarchy.

And, fifth, there was an argument made this morning that I had never heard before although it may have been presented in these hearings before. It is this: that section 5 of the 14th amendment would permit Congress to reverse the Court or at least to make findings which would cause the Court to reverse itself.

Now section 5 of the 14th amendment, as the committee well knows, provides that the Congress shall have power to enforce by appropriate legislation the provisions of this article. It does not say that they can change the interpretation of the article. The Supreme Court having said that the equal protection clause prohibits segregation, certainly Congress cannot change it. And the choices are before you very clearly—its choices are these: Enforce the Supreme Court decision or stand inactive and allow violation of the law of the land.

I have faith and confidence in you gentlemen. I have faith and confidence that you will carry out section 5 as it was intended for the enforcement, not the rewriting of the 14th amendment.

There is another argument made this morning and has been made day after day here, and that is that the great title 6 of H.R. 3147 is an unequal application of the law.

I refer to title 6 as great because I believe that title 6 is the most important single piece of legislation or part of legislation before the Congress at this time. You know it was adopted once by the House. It was adopted in 1957. It was adopted by a large vote. It was then called part III of the Civil Rights Act of 1957. This is simply an updated, clarified, and redrafted part of the old part III. To us in the civil rights groups, title 6 of H.R. 3147 is the indispensable element of any adequate civil rights legislation. Other things are important, and I will come to that, but this title 6 is the final, ultimate, important section.

Now all of the witnesses before you who have opposed this legislation have referred to this as an unequal application of the law, and even implied that that made it unconstitutional, Mr. Chairman.

Title 6 provides that the Attorney General shall enforce the constitutional rights of individuals where they are incapable of doing so themselves. This is a well preceded power in the Government.

The Attorney General enforces the antitrust laws and protects private individuals and they are certainly a lot better able to protect themselves than the Negroes of the South. The Attorney General

enforces the wage and hour law on behalf of private individuals, and they are certainly a lot better able to protect themselves than the Negroes of the South. We say that not only is there ample precedent for title 6 in other areas of law, but if there ever was a case that cried out for Attorney General action, it is the situation covered by title 6.

At no time during our history has the full power of a group of States been so mobilized to deter citizens from exercising rights declared under the Constitution and to prevent others from providing the legal and financial assistance necessary to implement them. If ever there was an occasion for the exercise of Federal protective powers to secure the rights of citizens, it exists now.

I would like to turn now to an argument that you have heard day after day and that is that there is something wrong with title 6 because it applies to individuals or would restrain individuals.

Now, Mr. Chairman, it is true that the 14th amendment restrains State action.

Turning then to title 6, I have two points I would like to make about it. In the first place, the major function of title 6 is to restrain State action. In other words, most of the impact of title 6 is going to be upon school boards. It is going to be upon transportation agencies of the States. It is going to be upon the recreational agencies of the States. Title 6 will operate primarily against State action, but in three individual cases title 6 will operate on individual action. Each of these is perfectly constitutional.

First, an individual who acts under color of any State statute could be enjoined. Of course this is true. The bus driver who segregates under State law is really taking State action and, of course, in that instance the 14th amendment applies.

Second, an individual who conspires with State officers to deprive persons of rights guaranteed by the 14th amendment is engaging in State action. It is part of the conspiracy of State action to deprive citizens of rights and therefore Federal process can run against the individual.

And, third, an individual who seeks to interfere with the obligation of State officials, sworn to uphold the Constitution, to implement rights under the 14th amendment, may be restrained from such interference by the Federal courts.

Take the school board at Hoxie, Ark. They wanted to carry out their duty under the 14th amendment, but some individuals were threatening to keep them from it. There they went to court and the court upheld that right, and by the same token the Federal Government could act to protect them against individuals coming in to interfere with their rights under the 14th amendment.

Title 6, Mr. Chairman, does not apply primarily to individual action; it applies primarily to State action, but in three cases where the reach of the Constitution does cover individuals, it carefully applies. Title 6 is well drafted, carefully limited and, as I say, we urge its adoption as the indispensable element of any meaningful civil rights legislation.

Mr. McCulloch. Mr. Chairman, I would like to comment at that point. In the civil rights bill in 1957, as the distinguished witness has just said, section 3 was substantially the same as title 6 in the bill known as H.R. 3147, Mr. Celler's bill. I had a little part in the

fight on the floor of the House, which was finally a winning fight, that kept it in the bill. I regret to say again for the record that before the conference committee was appointed, or before it acted, those who had great interest in section 3 of that bill, if I might use the vernacular or the slang, pulled the rug out from under us and made it impossible for us to fight the battle in the conference committee for title 3.

Now speaking as an individual who had some part not only in preliminary discussions, but in drafting H.R. 4457, we were fearful that this would happen to us again. I can't refrain from referring to that old saying about the King of France, and this is a modification of it: I don't think it serves any purpose to march 40,000 men up the hill and march them right down again.

If the distinguished witness now has alined on the side of title 6 or old section 3 the strength that will be an abiding strength, we will be glad to call on you further about the matter.

Mr. RAUH. Congressman McCulloch, I know your fine record in trying to get title 3 through and every one of the organizations here fought for title 3 and is fighting for it again.

Now what happened in 1957 was that we were confronted with a bill without title 3 or no bill. Vice President Nixon himself told me that he thought it would be well, just after title 3 was taken out, just to let the thing lie for a year. But we in the civil rights organizations didn't want to let it lie for a year; we wanted a bill—so we took it without title 3. But the day that the bill went through without title 3, we started fighting for it, sir, and we would like to enlist you to come back to the ranks of those who will fight for title 3.

You are an important man in this fight, Congressman McCulloch. You may be the most important man. We want you in this fight and we want you badly.

Mr. McCULLOCH. And this I say with some feeling, but with no bitterness: If that should happen, I hope before the retreat is ordered that some of those who have been successful in the offense will be consulted.

Mr. RAUH. Look, I am not justifying Senator Lyndon Johnson, Mr. McCulloch. I fought on the floor—

Mr. McCULLOCH. I don't mean that.

As I recall, since you are mentioning names, my good friend Roy Wilkins was one of the leaders who made that deal. He is the president of one of the organizations you speak for today.

Mr. RAUH. No, there was no deal made. I was there. The point Congressman McCulloch, was this: Roy Wilkins and the leaders of these other organizations, including myself, had a simple decision: Do you want the Civil Rights Act of 1957 without title 3 or do you want no civil rights bill at all.

Mr. McCULLOCH. The bill had passed the House. I would like to put the responsibility where it belongs. The bill had passed the House and you came to that conclusion after you surveyed conditions in the Senate, didn't you?

Mr. RAUH. You and I can agree on something.

Mr. McCULLOCH. Did you come to that conclusion after you surveyed conditions in the Senate?

Mr. RAUH. Yes, sir. You and I agree. You see, that is the trouble. We agree more than you are willing to admit. This bill was a wonderful bill when it passed the House of Representatives. It had title 3 in it. Over in the Senate, Senator Lyndon Johnson got title 3 knocked out and I put the responsibility for the loss of title 3 right on Senator Lyndon Johnson, and that is just where it belongs. But I say to you the fact that Senator Lyndon Johnson cost us title 3 in 1957 is no reason for your leaving the fight in 1959. We want you back. We want to go over to the Senate with you with a bill that you put through with title 3 or title 6, as it now is. We want to go over to the Senate and fight for your title 6. Give us a chance. If you don't support it now, you don't give us a chance over there, sir. We think we have a chance this time.

I heard Senator Church say on the floor of the U.S. Senate, "I will back part 3 this time." He voted against us last time.

We ask, we plead, for the chance to go back to the Senate with a bill with title 3 and fight, and I think you and I agree more than our colloquy might indicate. I place the blame just where you place it, on the Democratic leadership in the Senate that took title 3 out. Give us a chance and we hope to get them to take it back.

Now there are other wonderful parts of H.R. 3147 which I know everybody knows. We won't go into that in detail. I would just like to say I don't like it called bribery when a provision of the bill offers assistance in the transition from segregated to desegregated schools. Both H.R. 4457 and H.R. 3147 have provisions to assist the integration of schools. We in the civil rights organizations prefer the provisions of H.R. 3147. We believe that they are stronger and we urge the enactment.

On the other hand, I don't mean to say, Congressman McCulloch, that we do not appreciate the fact that your bill, although not going the whole way in that respect, is a step in the right direction. We would simply prefer the more comprehensive provisions of H.R. 3147.

Mr. McCULLOCH. I should like to ask this question and maybe I shouldn't, but I am going to ask it anyway: If, in substance, H.R. 4457 is the only bill that can come out of the Judiciary Committee, could we count on the support of you and the organizations you represent for H.R. 4457?

Mr. RAUH. I cannot commit 20 organizations, sir. I don't have that kind of authority. I am doing the best I can and I think everything I have said up to this point clearly represents the views of every organization.

Mr. McCULLOCH. All right, I will make the question easier. Can you as an individual support H.R. 4457 as a mild, temperate approach to one of the difficult problems of our times if it be impossible to have H.R. 3147 enacted?

Mr. RAUH. Mr. Congressman, I guess I can't think about that defeat yet. I don't mean that exactly as it may sound. I don't mean that your bill is a defeat. I don't want to decide that one way or another. I want to make my position clear because it is very important. I think it is important to all of the organizations and it is important to you. I don't want to decide where we go after we lose what we are

really after. This is a fight for something that means so much to us that we don't want now to say what would happen if we don't get what we are trying to get.

Mr. McCULLOCH. I understand that position, but you and your group are not novices around Washington and it is hardly necessary for me to say to you that legislation, in practically all instances, is the result of compromise. In a field where the feeling is so tense that is perhaps doubly true. And if there is to be civil rights legislation in this session of Congress, I have no hesitancy in saying, as a member of this subcommittee, it is my studied judgment that there is going to be some compromise and that compromise ought not to come too late.

Mr. RAUH. You are the tactician and I am the outsider, sir, but I will say this: In our view there are enough votes in the House of Representatives to pass title 6 of H.R. 3147. Therefore I would simply say, as I said before, we consider title 6 of 3147 the indispensable element. What we would do if we didn't get this is far down the road. I am still going to smile and say that I am optimistic enough to think we are going to get title 6 through the House of Representatives and I am optimistic enough to think that there is hope of getting your support for doing that.

Now we support strongly several provisions of 4457. I think your title 3, for example, is an absolute must. I think title 3 is the great advance of 4457.

Mr. McCULLOCH. Well, Mr. Chairman, I am happy to see that you endorse it because it is my opinion that in the long run if the right to vote is guaranteed to every citizen in this country, in a manner consistent with the Constitution, we will solve our problems in this representative Republic. Since the witness has made reference to title 3, I would like to ask his judgment about the constitutionality of that provision. Some question has been raised over it in these hearings.

Mr. RAUH. I don't even think there is a question, Mr. McCulloch. *Smith v. Allwright* and *Terry v. Adams* go far beyond anything in this bill. Indeed it would be constitutional under the 15th amendment to run a Federal registration system. I am not now suggesting you run one; I am only saying that this bill does not nearly go to the limit of the constitutional power of the Congress to set up a scheme of elections which assure participation without regard to race, creed, or color. In other words, it seems to me if you decided in your wisdom that there was no other way to get Negroes to vote in the South except through a Federal registration system, I have no doubt that that would be constitutional. I do not at this time urge such a thing, but in a Federal election there can be no valid question about a requirement to keep records so you can see whether in fact the Negroes have had their right to vote.

I suppose you know full well about *Smith v. Allwright* and *Terry v. Adams*. Those cases go far beyond anything here and indeed the 15th amendment in clear language gives Congress the implementing power to see that no one is denied the right to vote.

I would also like to support your title 1, Mr. McCulloch; title 1 of 4457, the obstruction of justice provision. I don't understand Congressman Willis' argument about broadening it, however. You don't always cover everything in every piece of legislation. You find a need

and you deal with it. It may be that this could be broadened. I am not saying that; I am arguing that, however, you might, by broadening it, cover a lot of situations you didn't intend to cover.

Legislation works better, it seems to me, where it deals with an immediate problem and it should not be broadened without a full study of all of the ramifications. Therefore we strongly urge the application of title 1 in its present form. It buttresses the other bill. I would say that to have a bill with 3147 and titles 1 and 3 of 4457 would be fine.

We have no objection to the Civil Rights Commission being extended, although this is less significant, in our judgment, than many of the things we have been talking about before.

Mr. Chairman, the consequences of the kind of defiance this committee has witnessed at these very hearings can be grave indeed. I would like to couch my words carefully, but still forcefully. I think that when witnesses come before this committee and counsel defiance of law, they do sow the seeds of disrespect for law that results in the kind of tragic incident that we had in Mississippi last week. This mob that met in Mississippi was no more culpable, no more guilty, than the "respectable" leadership which counsels defiance of law.

You can't have a little disrespect for law. You either respect it or you don't, and if you respect law, then there will be total law and order with only minor incidents. But if you have a disrespect for law, then there will be total lawlessness. And I say that the seeds for the tragic events in Mississippi were sown by the leadership of that State which has counseled disrespect of law and which even came into this very committee room and added to that disrespect.

There is, Mr. Chairman, a bitter irony in the fact that at the very moment the attorney general of Alabama was deriding the need for antilynching legislation and abusing the Supreme Court's decision in this room, the mob was forming in Mississippi.

So much for the sad part. There is another side of this. There is the side that we are going to win; there is the side that law and order is ultimately going to prevail. Despite the last-ditch efforts of the segregationists, the question is no longer whether we shall desegregate our public schools, but how and when. And the majority on this question is united that there must be law and order.

Mr. McCulloch and I may have a minor difference on some point, although I don't see too many of them myself, but we are agreed, and I am sure every member of this committee is agreed, that we are going to get compliance with law and order. We urge, we plead, for H.R. 3147 and we ask this committee to act, and act speedily.

Mr. Chairman, today is the 1st day of May. We must have a bill out promptly. We must have action and we must have a bill out soon. There must be action by late May or June. If that happens and if title 6 can be retained, we intend to urge the civil rights Senators to bring the bill directly to the floor of the Senate, without going through the Judiciary Committee there, if it is clear by that time that Chairman Eastland is running a filibuster and will not report out the bill. If you can get a bill over to the Senate in early June, and if no bill has been reported out of the Senate Judiciary Committee by then, we believe a real fight can be made and we believe it can be successful as it was in 1957, to get that bill on the floor and to get action at this

session of Congress. But whether we will get action at this session of Congress depends on this subcommittee and on the full committee and on the House. You have to show the leadership in the fight for civil rights. It cannot come from the other side of the Capitol. It cannot come because we saw what happened in 1957 in the tragic deletion of title 3. But if the leadership will come from this side, we believe there will be a different result this time on the other side.

If this committee acts quickly, if it acts assuredly and firmly, we can look for action. We can look no other place for initiative except to this committee and the House. Therefore I say, and I say it with deep conviction and sincerity on behalf of the civil rights organizations, the fate of law and order, the fate of desegregation, the fate of decent treatment of all citizens is in your hands.

Thank you very much, sir.

Mr. ROGERS. Thank you, Mr. Rauh. We appreciate your statement and are looking forward to further action.

The next witness is Mr. Gordon Tiffany, executive director, Civil Rights Commission.

Mr. Tiffany, will you step forward? Will you identify yourself for the record?

STATEMENT OF GORDON TIFFANY, STAFF DIRECTOR, CIVIL RIGHTS COMMISSION

Mr. TIFFANY. Mr. Chairman and honored members of Subcommittee No. 5, my name is Gordon M. Tiffany, and my position is Staff Director for the Commission on Civil Rights.

I appear today, Mr. Chairman, in response to an invitation to answer certain statements which have appeared in the record.

Mr. ROGERS. You have had an opportunity to examine the statements made by the various representatives from the State of Alabama. Having made that examination, you may proceed to tell us what actually took place and what the testimony may have been.

Mr. TIFFANY. I shall be very pleased to do so, sir, and I will do it as briefly as possible in view of the hour.

To summarize the statements which you have referred to, it would seem to me that the entire burden of those remarks was directed to the fairness or the lack thereof of the conduct of hearings by the Commission on Civil Rights held on December 8 and 9 of 1958 in Montgomery, Ala. These hearings were conducted in the Federal courthouse with the express permission of the justice of the circuit court who allowed us to use his courtroom for purposes of this hearing.

I will make an effort, Mr. Chairman, to recreate as best I may by words what was the atmosphere of that hearing room and the manner in which this hearing was conducted. I would like to make one reservation. I would note in passing that there has been a film made of the proceeding there and of course if the old saying holds good, that one picture is worth a thousand words, it might be that in executive session you or your committee would care to see this film. I simply want to say that that film would be made available to you should you desire to have it. However, for the time being I will try to do the best I can with my words.

In any event if the film were used, I would want to make certain that the record which was kept, the verbatim transcript of the proceedings, should be considered at the same time as the film would be considered. The film would not be used as any evidence of the truth of what was said; it would simply give the atmosphere of the hearing room, and what happened.

A great deal of fairness, Mr. Chairman, was dependent upon the persons who conducted this hearing. I think this committee is well aware that in his appointment of the Commission on Civil Rights the President has named to this group a bipartisan collection of six people, as directed in the statute; three of them from the South. They are distinguished southern citizens, and they were assigned to conduct this hearing in Alabama.

Mr. ROGERS. I understand, Mr. Tiffany, that you do have a transcript of what took place.

Mr. TIFFANY. Yes, sir; I have.

Mr. ROGERS. We would be pleased to have you deliver to us that transcript for the record so there will be no misunderstanding about it and then we would have it available and the full committee wants to take and look at the pictures. You will have those available; is that right?

Mr. TIFFANY. Yes.

Mr. Chairman, may I say the copy that I have with me at the present time is marked for the printer. We are in the process of printing it ourselves. I will see that you get another copy at the earliest possible moment.

Mr. ROGERS. That is perfectly all right.

Mr. TIFFANY. And, in fact, I would like the privilege, Mr. Chairman, in the course of my remarks this morning to read specifically certain short sections from that record so as to give you the flavor as best I can of the hearing room itself.

Assigned to conduct as law member of the Commission the hearing in Montgomery, Ala., was Robert Gerald Storey, who is our Vice Chairman. He is called Dean Story because of his position as dean of Southern Methodist University Law School. He is a partner and active practicing attorney in Storey, Armstrong & Stegner, a law firm in Dallas, Tex. He is also president of the Southwestern Legal Foundation.

Now, Dean Storey has a number of accomplishments to his credit, which I think will be found in the regular record of this committee, at its former hearing where we submitted the biographies of members of our Commission. I would think it sufficient at the present time to point out that he is the former president of the American Bar Association and that he has also been president of local bar associations such as the Dallas bar and the Texas bar. He is a member of the council, International Bar Association; and has received various honors; for example, the Linz Award in 1956 as outstanding civic leader of Dallas; and the American Bar Association Gold Medal for the greatest contribution to the advancement of jurisprudence. He has advised Korea with reference to the establishment of its judicial system and the legal profession and its activity in that country.

In short, the point I am trying to convey here is that the person conducting the hearings not only was a southerner, but he had a high

regard in his background and training for every possible legal effort that would lend and tend toward the fairness of the hearing.

Mr. McCULLOCH. Mr. Chairman, I would like to question the witness off the record.

(Discussion off the record.)

Mr. TIFFANY. Mr. Chairman, I would like to read briefly from the comments of Dean Storey at the time when he opened the hearing in Alabama.

Members of the Commission, ladies and gentlemen—
said Dean Storey, and I quote:

First, may I add a word to the chairman's statement to assure everyone that we are here on a mission to ascertain facts about an issue that is vital to every American citizen. We are here performing a duty that is, for at least some of us, unusual, a duty delegated to us by the Congress and the President. We did not seek this responsibility, but when the President appointed us to join in a nonpartisan mission to seek the facts of this complex human and legal problem commonly known as civil rights, we felt obligated to serve. This is a difficult assignment, at least for me, because it is raising a fundamental question about the political processes of my own region.

My father was born in Alabama—

said Dean Storey—

reared here and educated before he emigrated to Texas. I have close relatives and many good friends in this State. My grandfathers were Confederate soldiers. So there are many thoughts and memories going through my mind as we meet in Montgomery, the cradle of Confederacy, but history moves on. We are one Nation now; hence this bipartisan Commission composed of two presidents of great universities and four lawyers has a solemn duty to perform. We are sworn to uphold the Constitution of the United States. Our sole purpose is to find the facts. We hope that a thorough understanding and evaluation of the facts will contribute to sound and reasonable recommendations.

As the President said when the Commission was created, these problems of civil rights can only be solved "by understanding and reason." Similarly the Democratic leader of the Senate, Senator Lyndon Johnson of my own State, commented that this Commission "can be a useful instrument. It can gather facts instead of charges. It can sift out the truth from the fancies, and it can return the recommendations which will be of assistance to reasonable men." It is in this spirit we are here—

said Dean Storey.

Each witness subpoenaed received a copy of our rules of procedure when he was served with a subpoena. Fair, informal, and nontechnical procedure will be followed. Constitutional rights of witnesses will be protected in these proceedings, as provided by the statute which reads: "Witnesses at hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights," a copy of which has been delivered to each witness with his subpoena.

This hearing or inquiry—

he continued—

is not in any sense an adversary proceeding. The complaining parties who have submitted sworn statements will be called first. Then we will ask the appropriate public officials to testify. All testimony will be under oath—

and so on. I would leave it at that.

Again I want to point out that these rules of procedure which were adopted by the Commission long before this hearing was contemplated last spring at a meeting here in Washington were adopted with this point of view of fairness as a primary objective, and I have with me, Mr. Chairman, copies of those rules of procedure. Specifically, I want to read from rule 3(K), and I would leave copies with the com-

mittee—in fact, I will pass them up now, if you would like to have them.

Mr. ROGERS. Let's put the rules in the record right now, and then you read from any section that you so desire.

(The rules are as follows:)

RULES OF PROCEDURE FOR HEARINGS OF THE COMMISSION ON CIVIL RIGHTS

1. Under Public Law 85-315, section 105(f), the Commission on Civil Rights may hold hearings and issue subpoenas or authorize a subcommittee to hold hearings and issue subpoenas under the following conditions:

"The Commission or on the authorization of the Commission any subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpoenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission as contained in section 102 (j) and (k) of this Act, over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman."

2. All such hearings of the Commission will be governed by the following statutory rules of procedure provided in section 102 of Public Law 85-315:

"(a) The Chairman or one designated by him to act as Chairman at a hearing of the Commission shall announce in an opening statement the subject of the hearing.

"(b) A copy of the Commission's rules shall be made available to the witness before the Commission.

"(c) Witnesses at the hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

"(d) The Chairman or Acting Chairman may punish breaches of order and decorum and unprofessional ethics on the part of counsel, by censure and exclusion from the hearings.

"(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall (1) receive such evidence or testimony in executive session; (2) afford such person an opportunity voluntarily to appear as a witness; and (3) receive and dispose of requests from such person to subpoena additional witnesses.

"(f) Except as provided in sections 102 and 105(f) of this act, the chairman shall receive and the Commission shall dispose of requests to subpoena additional witnesses.

"(g) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission evidence or testimony taken in executive session shall be fined not more than \$1,000, or imprisoned for not more than 1 year.

"(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission is the sole judge of the pertinency of testimony and evidence adduced at its hearings.

"(i) Upon payment of the cost thereof, a witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Commission.

"(j) A witness attending any session of the Commission shall receive \$4 for each day's attendance and for the time necessarily occupied in going to and returning from the same, and 8 cents per mile for going from and returning to his place of residence. Witnesses who attend at points so far removed from their respective residences as to prohibit return thereto from day to day shall be entitled to an additional allowance of \$12 per day for expenses of subsistence, including the time necessarily occupied in going to and returning from the place of attendance. Mileage payments shall be tendered to the witness upon service of a subpoena issued on behalf of the Commission or any subcommittee thereof.

"(k) The Commission shall not issue any subpoena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpoenaed at a hearing to be held

outside of the State, wherein the witness is found or resides or transacts business."

3. In addition to these statutory provisions, the Commission has adopted the following supplementary rules of procedure:

"(a) All the provisions of section 102 of Public Law 85-315, incorporated in rule 2 above, shall be applicable to and govern the proceedings of all subcommittees appointed by the Commission pursuant to section 105(f) of Public Law 85-315, incorporated in rule 1 above.

"(b) At least two members of the Commission must be present at any hearing of the Commission or of any subcommittee thereof.

"(c) The holding of hearings by the Commission or the appointment of a subcommittee to hold hearings pursuant to the provisions in rule 1 above must be approved by a majority of the members of the Commission or by a majority of the members present at a meeting at which at least a quorum of four members is present.

"(d) Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued over the signature of the Chairman of the Commission by the Chairman or by the Chairman upon the request of a member of the Commission.

"(e) Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued over the signature of the chairman of a subcommittee appointed pursuant to the provisions of rule 1 above by the Chairman or by the Chairman upon the request of a member of the subcommittee.

"(f) An accurate transcript shall be made of the testimony of all witnesses in all hearings, either public or executive sessions, of the Commission or of any subcommittee thereof. Each witness shall have the right to inspect the record of his own testimony. A transcript copy of his testimony may be purchased by a witness pursuant to rule 2(i) above. Transcript copies of public sessions may be obtained by the public upon payment of the cost thereof.

"(g) Any witness desiring to read a prepared statement in a hearing shall file a copy with the Commission or subcommittee 24 hours in advance. The Commission or subcommittee shall decide whether to permit the reading of such statement.

"(h) The Commission or subcommittee shall decide whether written statements or documents submitted to it shall be placed in the record of the hearing.

"(i) Interrogation of witnesses at hearings shall be conducted only by members of the Commission or by authorized staff personnel.

"(j) If the Commission pursuant to rule 2(e), or any subcommittee thereof, determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall advise such person that such evidence has been given and it shall afford such person an opportunity to read the pertinent testimony and to appear as a voluntary witness or to file a sworn statement in his behalf.

"(k) Subject to the physical limitations of the hearing room and consideration of the physical comfort of Commission members, staff, and witnesses, equal and reasonable access for coverage of the hearings shall be provided to the various means of communications, including newspapers, magazines, radio, newsreels, and television. However, no witness shall be televised, filmed or photographed during the hearing if he objects on the ground of distraction, harassment, or physical handicap."

4. Public Law 85-315, Section 105(g) provides that in case of contumacy or refusal to obey a subpoena of either the Commission or a subcommittee thereof, any district court of the United States or the U.S. court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(As approved and adopted by the Commission July 1, 1958.)

Mr. McCulloch. I would like to ask the witness a question there. Is it true that the rules which the Commission adopted are, in sub-

stance, the rules that govern the action of the committees in the Senate of the United States?

Mr. TIFFANY. Mr. Chairman, that is the basis of these rules. When these rules were requested by the Commission, we studied carefully not only the existing rules of procedure in the House and in the Senate followed by many of those committees, but we also studied the history of those committees in the House and Senate which were specifically assigned to study the fairness of rules.

You may recall that following the McCarthy situation such committees were established and in that respect we have tried our best to follow that pattern.

Now this rule to which I refer is 3(k), and it reads as follows:

Subject to physical limitations of the hearing room and consideration of the physical comfort of Commission members, staff, and witnesses, equal and reasonable access for coverage of the hearings shall be provided to the various means of communications, including newspapers, magazines, radio, newsreels, and television. However, no witness shall be televised, filmed or photographed during the hearing if he objects on the ground of distraction, harassment, or physical handicap.

Now pursuant to that rule, Mr. Chairman, one of the witnesses was called whose name was Judge Varner. He was a probate judge and under the election laws of the State of Alabama the probate judges have custody of the voting lists. At this point the judge was invited to take the stand and he explained, on page 251 of the transcript, in answer to Dean Storey's question:

Is Judge Varner ready to testify? You were sworn this morning, were you, Judge—

asked Dean Storey.

Judge VARNER. I ask that the pictures be stopped, sir.

Vice Chairman STOREY. Sir?

Judge VARNER. I ask that the pictures be stopped, sir.

Vice Chairman STOREY. Judge Varner has asked that the pictures be stopped in connection with his testimony.

Now, Mr. Chairman, that was not simply an idle statement that went into the record. At a subsequent time one of the photographers—I have no idea what his name was, but it matters not—but I heard a machine behind me and at page 271 of the record, at the expense of interrupting the testimony, I stated, "Excuse me, Dean Storey," and I turned then to the person with the camera and I said, "There will be no pictures while this witness is on the stand the rule was made."

So that we not only have these rules; we not only adopted them, Mr. Chairman, we followed them.

May I go off the record for a moment?

Mr. ROGERS. Off the record.

(Discussion off the record.)

Mr. TIFFANY. Mr. Chairman, at this time I would like to refer to Public Law 85-315, which was adopted by the 85th Congress in September of 1957. This law is the one which under part 1, creates the Commission on Civil Rights and then provides under section 102 certain rules of procedure to govern the activity of the Commission.

Under 102(b), it provides that a copy of the Commission rules shall be made available to the witness before the Commission. Under 102(c), it further provides witnesses at the hearings may be accom-

panied by their own counsel for the purpose of advising them concerning their constitutional rights.

Now, Mr. Chairman, with reference to the advice on constitutional rights, I think it would be well for us to read at this point from the exchange of comments between the then Attorney General John Patterson, now the Governor of Alabama, who appeared here earlier and whose comments we are answering at this point. The colloquy between Mr. Patterson and Dean Storey. This is found at page 248, commencing on page 248, in our transcript of the Alabama hearings:

Mr. PATTERSON. Mr. Chairman, my name is John Patterson. I am the attorney general of the State of Alabama, and I have heretofore advised Judge Varner that he had no legal authority to remove the records of Macon County from the county and bring them here to Montgomery, and I didn't know this development was going to take place, and if these are the records of Macon County Probate Court on the floor in front of me, before Judge Varner takes the stand and testifies I would like to make a statement clarifying the position of the State of Alabama in this matter, and raise certain objections for the record in this hearing.

Vice Chairman STOREY. Mr. Patterson, I don't believe there will be any embarrassment about the records. We would like to interrogate Judge Varner first.

Mr. PATTERSON. There are certain serious constitutional objections that we want to raise in this hearing, and we are somewhat afraid that it might subsequently be considered as a waiver of our objection if we don't raise them at this time.

Now, Judge Varner is the probate judge of Macon County. He is a constitutional judicial officer of this State, and he is expressly prohibited by law from taking the records of his office outside of his county except under unusual circumstances. We feel that in addition to that, this Commission, which is the Civil Rights Commission, which is an arm of the legislative branch of the Government, has no constitutional right to call a judicial officer in here and question him about the affairs of his court, and we want to raise that objection at this time.

Vice Chairman STOREY. Mr. Patterson, I assume you are appearing in the prerogative or in the capacity to advise the judge on his constitutional rights, are you not?

Mr. PATTERSON. Well, of course, only at his request. He certainly is—

Vice Chairman STOREY. You have that privilege.

Mr. PATTERSON. He is a judge of his own court.

Vice Chairman STOREY. You have that privilege, but I don't think you will find the Commission transgressing on any constitutional rights, and we will proceed with the examination of Judge Varner. I assure you there is no effort to take these records away from this courthouse, and probably you are anticipating something that is not going to happen.

Mr. PATTERSON. I would like, if it is permissible, to enter into the record at this time the letter that I prepared and delivered to Judge Varner stating the position of the attorney general as to the law in this case.

That record, too, Mr. Chairman, will be made available with our transcript to this committee.

Vice Chairman STOREY. Certainly. We will be glad for you to file the letter, and it will be entered into the record.

Mr. PATTERSON. All right, sir.

Vice Chairman STOREY. Is Judge Varner ready to testify?

Then we run into the testimony which I have previously read.

In two subsequent instances, Mr. Chairman, there were statements directly in the record where the vice chairman in discussing a matter of representation by counsel specifically stated:

We can wait now and you can counsel with your attorney. We want to be fair in this thing.

You will find that statement is typical of the manner in which Dean Storey conducted these hearings.

Mr. Chairman, another point which was raised by Mr. Patterson in the course of his discussion here was with reference to the use of subpoenas. I think that I should state this for the record, because it doesn't appear in the transcript anywhere so far as I recall. In this hearing the Commission on Civil Rights determined that they would use subpoenas throughout the hearing regardless of whether a person might be termed a voluntary witness or involuntary witness. I suppose in a sense this might be termed equal protection. In any case, we gave subpoenas to all witnesses so that when a statement is made such as appears in the record when we came to Alabama and we started to use subpoenas, then everybody resigned, I just want the committee to know that subpoenas were used as a matter of routine rather than singling out any particular State officer for the use of a subpoena.

Now, the fact of the matter is with reference to resignation that these registrars of voters did not resign before the Commission held its hearing in Alabama. The truth is that on many previous occasions and following the Commission's hearings in Alabama these registrars have resigned.

I would like to say that in 1946 there was no board of registrars in Macon County for 18 months, beginning in 1946, continuing on again in July of 1948 to January of 1949, there were no registrars in Macon County, and again a third time on January 1 of 1956 to June of 1957 there were no registrars of voters in Macon County. I think, therefore, that should simply be noted in the record, that the advent of the Commission on Civil Rights in Macon County or elsewhere in Alabama did not necessarily precipitate the resignation of the registrars of voters. Such was apparently a frequent occurrence which had taken place at least on three previous occasions.

Mr. McCULLOCH. Mr. Chairman, I would like to ask a question off the record.

Mr. ROGERS. Off the record.

(Discussion off the record.)

Mr. ROGERS. Back on the record.

Mr. TIFFANY. Finally, sir, I understand that a statement was made here on page 1131 of this record in your committee that there were only 20 witnesses involved in the hearings in Montgomery who were denied the right to vote. Actually I am advised that the total number of complainants in the Alabama situation came to about 100; that the fact that we only had, I believe, 37 complaining witnesses called to the stand was a matter of the selective process, but those complaints are still a matter of record. All of the complaints are still a matter of record in the Commission, and so I just didn't want to leave it on the record that we went all of the way to Alabama, and that we heard only 20 complainants. We had about 100 complaints in the case of the Alabama hearings.

Mr. ROGERS. These were sworn complaints?

Mr. TIFFANY. These are sworn complaints, yes, Mr. Chairman.

There was one other statement in the record which indicates that we couldn't accomplish anything that couldn't be done in the courts in Alabama, namely, that under the Alabama laws a provision is made whereby a disappointed person who wishes to register can appeal

from a denial of registration by the board of registrars within a period of 30 days. Now, the record which we will furnish this committee is replete with instances that indicate that the boards of registrars do not notify the applicant that his application has been denied, so that it is rather difficult to determine if you have a basis of appeal within a 30-day period allowed by the statute unless you know whether or not your application has been denied. The record will show this at pages 42, 43, and 64, if you please, Mr. Chairman.

I want to say in closing that if there are any additional questions which the committee has, I would hope very much that you would feel free to ask them. For the present, I have tried to confine myself in response entirely to the record, as I understand that was the only question that was raised.

Mr. PEET. Mr. Tiffany, were you yourself at those hearings in Alabama?

Mr. TIFFANY. Yes, I was.

Mr. PEET. Then you here testify that the alleged circuslike atmosphere referred to by many of the witnesses who testified earlier did not exist?

Mr. TIFFANY. I would not describe any atmosphere in that courtroom as circuslike.

Mr. PEET. But there were TV cameras down there?

Mr. TIFFANY. Yes, there were.

I would like to comment briefly on that. There is, of course, a question and a matter of opinion as to what extent you recognize the interests of the fourth estate and the TV and other media of communication in such a proceeding. It has always been the attitude of the Commission on Civil Rights that we are a Commission on Civil Rights, that the greatest amount of information may be given to the public consistent with the rights of the witnesses, and in drafting their rules I think they have expressed that clearly.

Mr. PEET. It was testified here that extensive preparations were made for the hearings down there, apparently involving a good deal of time, effort, and materials in preparing the committee hearing room. Could you testify as to the accuracy of this statement?

Mr. TIFFANY. I would say this: It is always a question as to what is the appropriate place in which to hold a hearing. It seemed obvious to us that the Federal courthouse could be without question an appropriate place. We went to the court, to the judge, with our request, and he approved our using his courtroom. We explained to him what facilities had been requested by the television cameras and the press. As far as I know, those provisions were approved by the court in granting us the use of the courtroom.

Mr. PEET. And it was an actual courtroom you were in?

Mr. TIFFANY. It was an actual courtroom; yes, sir.

As far as preparations are concerned, the television cameraman asked for a platform. It was built, I understand, by the custodian of the courthouse, who has a hobby in carpentry, and he built it with spare lumber, and it took a matter of 2 days. That took place before I got to Alabama, but that is my understanding, and it may give you some conception of what the situation was.

Mr. McCULLOCH. Would that platform have been between the witness and his counsel or between the witness and the Commission?

Mr. TIFFANY. Definitely not. If I may, let us assume that the members of this committee are in a similar position to that of the Commission in Alabama, sitting at the bench of the court; in front of that committee then sits the reporter. On the Commission's left, as they look toward the audience is a chair for the witness. On the Commission's right as they look toward the audience is a small table for the staff. Behind that table there was a platform that went along the wall, and slightly around the corner, at the rear of the room, facilities were made available for the television. The witnesses who had seats specifically reserved for them were in the audience facing directly to the Commission in the same way that I am located here, Mr. Chairman, and they were able to converse with their witness who had the stand at the left of the Commission.

I have tried to recreate this as best I can by making a reference to this room, and I want to say in fairness that the room which we used was not as high-ceilinged, and it was smaller, but the chairs were assigned in the audience section of the courtroom for the use of witnesses.

Mr. McCULLOCH. Was there a table available for counsel?

Mr. TIFFANY. No, sir; a table was not available for the witnesses; in the statement of Mr. Patterson I think he made the point that a table was not present or available for the attorneys. All I can say is this, that had we known, had we any intimation that counsel would be present with witnesses, a table could have easily, and I am certain would easily have been furnished for that purpose.

Mr. McCULLOCH. Was there a chair available for the counsel and for the witnesses so that he was in close proximity to the witness when the witness was on the stand?

Mr. TIFFANY. Yes, sir, the counsel had the chair right next to the witness' chair.

Mr. PEET. Will the record show whether any complaint was made at the hearing about the physical facilities in which the hearings were conducted?

Mr. TIFFANY. I recall no complaint being made in the record.

Mr. FOLEY. Were any complaints made?

Mr. TIFFANY. Not that I recall.

Mr. FOLEY. Were any complaints made subsequent to the hearing, sir?

Mr. TIFFANY. Not until this was raised here before this committee, sir.

Mr. McCULLOCH. Was any request made for a table or for additional facilities either for witnesses or their counsel?

Mr. TIFFANY. No, sir, the record does not show any such request.

Mr. McCULLOCH. Were there any spotlights on the faces or in the eyes of any of the witnesses while they were testifying?

Mr. TIFFANY. There were lights, but I wouldn't say that there were spotlights in the faces of witnesses. There was adequate lighting so that films could be taken successfully, not only of the witnesses but as to the members of the Commission as well.

Mr. McCULLOCH. Did any witness complain of the lights at any time?

Mr. TIFFANY. No, sir. In fact, Judge Varner was the only one who complained about the pictures, and I have already read that instance to you.

Mr. FOLEY. Before the hearings you had preliminary investigation made by members of your staff; is that so?

Mr. TIFFANY. That is so.

Mr. FOLEY. Now, prior to the hearings themselves were any complaints made to the Commission about the activity of your investigators?

Mr. TIFFANY. No, I would have heard them if there had been any.

Mr. FOLEY. None of these public officials ever filed any complaints about the action of your staff members?

Mr. TIFFANY. None whatever, sir. Quite the contrary. Let me say this—I don't want to be personal, but just by way of something in my own background—I had the honor of being attorney general in New Hampshire. Over a period of time I was a member of the executive board of the national association, and through such associations, which I still prize, have been able to keep in contact with many State officials. Now, when it came to Alabama, in fact, long before we had any idea of a hearing in Alabama, I read some comment of General Patterson in the press which to my mind indicated he had not had an opportunity to sit down and read the law, and I felt in fairness to everybody concerned I should write to him. I wrote to him directly. Then at a later time when we began our investigation in Alabama, Colonel Rosenfeld, who is the Director of our Division on Complaint Survey and Information, went directly to the office of the attorney general in Alabama. In other words, the point that I am making is this; that when the Commission on Civil Rights undertakes an investigation, and it is necessary for us to go to State officers or officers of a subdivision of the State, we go in the front door. We go to the attorney general. In some instances we may even go to the Governor, but under those circumstances I think that we have been indeed very fortunate in all of our contacts. I might add that I could see nothing except southern hospitality waiting for us when we got down there on this particular occasion as far as our official contacts were concerned.

Mr. ROGERS. If there are no questions, we stand adjourned. Thank you.

(Whereupon, at 12:50 p.m., the subcommittee adjourned.)

(The following was submitted for the record:)

TESTIMONY OF HON. BARRATT O'HARA

(Especially H.R. 5008)

Mr. Chairman, in every Congress of which I have been a Member I have sponsored bills to make lynching, the poll tax, and other discriminatory practices a violation of the Federal law. I have done this not because I believe that bigotry and intolerance can be eradicated by legislative enactment, but because I am convinced that there are citizens of good will and enlightenment in the South whose arms need the strength of Federal law. The continuance of lynchings, bombings, and other outbreaks of lawlessness are proof that unchecked lawlessness threatens the very foundation of our Government. Therefore I am here today to raise my voice again in support of legislation to outlaw lynching, the poll tax, and to secure for all citizens those rights guaranteed by our Constitution but particularly by the 14th and 15th amendments.

However, the act to which I am directing my especial attention today is the Civil Rights Act of 1959 which I have sponsored as H.R. 5008. It is not only the keystone of all civil rights legislation but perhaps the most important bill before Congress. Considering the present state of the world today and the handicap we

face in world opinion because of our failure to eradicate once and for all racial and religious discrimination it properly can be appraised as the most important bill before Congress. Every day that its enactment is delayed our international position suffers. So does our position at home. With our citizens divided into two classes and with evidences of lawlessness in the form of lynchings, bombings, as well as attempts to circumvent the Constitution and the decisions of the Supreme Court, unless we assert our moral leadership among our own people, it is inevitable that we shall find among the peoples of the world a diminishing respect for our leadership.

I appreciate the opportunity of testifying before this great committee, chaired by one of the outstanding champions of human rights, Mr. Celler, and urging with all the power I possess quick and favorable action to drive to get an early rule, and a determination to stay on the job until this bill has been brought to a vote in both bodies.

The civil rights bill of 1959 represents a necessary step toward realization of the principles on which our forefathers founded this Nation, the principle of the rights of man. Education, respect for the law, and most of all, awareness of the rights of the human person under the law—these principles must prevail. This bill makes available, to men and women of good will, the tools by which to achieve this end.

Our leadership in the free world began, not with our financial power, military strength or technical superiority. It began with our establishment of a nation on the declaration that: "All men are created equal and endowed by their Creator with inalienable rights."

Eighty-five years after our Declaration of Independence, we engaged in a great Civil War "to test whether this Nation or any other nation so conceived and so dedicated can long endure." The outcome of that war was interpreted throughout the world as an omen of progress for human rights.

Today, almost 100 years after the Emancipation Proclamation, we fear that that leadership in the free world which had been ours without question, is slipping away.

It is time to face up to the fact that our leadership has been moral leadership.

The Supreme Court decision of 1954 pointed out that segregation is morally wrong. Slowly we are learning that segregated schools waste money as well as human resources, and represent an extravagance we cannot afford. Segregation damages both its victims and those who practice it.

The Civil Rights Act of 1959 recognizes the need for Federal leadership and provides the modus operandi for ending segregation. The purpose of this proposed legislation is to extend full first-class citizenship to all persons born or naturalized in the United States.

(1) The Constitution, by its own declaration as well as declared by the anti-segregation decisions, is the supreme law of the land.

(2) The legislative and executive branches of the Federal Government must continue to act with such Federal authority as is found necessary to protect constitutional rights upheld by the judicial branch of the Government.

(3) Specific authorization to the executive branch of the Federal Government to act in support of constitutional rights upheld by the antisegregation decisions will provide a more rational uniform just and effective system of protecting constitutional rights than the present procedure under which the safeguarding of constitutional rights is left to individuals and organizations.

Louisville, Ky., furnishes an example of what can be accomplished with proper leadership. The superintendent of schools, Omar Carmichael, realized that the community must be led to a comprehension of the problem confronting it in order to find a means of solution. He sought the aid of parent-teacher associations, the Kentucky Council on Human Relations, churches and church organizations, women's clubs, civic groups and others. He solicited the assistance of radio stations and other channels for disseminating literature on race relations. The result of his work was that Louisville became involved not only in constructive thinking about race relations but came to view the problem from the moral, social, psychological as well as from the legal standpoint. There desegregation has proceeded smoothly and effectively.

Title II, section 201 in providing the technical assistance to achieve public understanding of and compliance with the Constitution and the Supreme Court decisions places in the hands of communities ways and means for applying the lesson learned at Louisville.

Through the Secretary of Health, Education, and Welfare, successful case histories of desegregation and ways and means of bringing it about will be published and distributed to public agencies, private organizations and the general public. Conferences on the State, regional and national level to be attended by private individuals, representatives of private organizations, State and local officials will be called to discuss ways and means of eliminating segregation in public education.

The Secretary is authorized to recruit, employ, and train specialists and make them available to State and municipal school districts for such time as he deems necessary in light of the particular need of a requesting Government unit.

For these purposes, the bill authorizes (sec. 204): not to exceed \$2,500,000 for the fiscal year beginning July 1, 1959, and for each of the 4 succeeding fiscal years, such amounts not to exceed \$2,500,000 in any fiscal year as may be necessary for carrying out the purpose of this title.

Grants are authorized for areas where desegregation is being carried out to cover:

- (1) the cost of additional schoolteachers.
- (2) the cost of giving teachers and other school personnel in-service training in dealing with problems incidental to desegregation.
- (3) grants for construction enlargement or alteration of school facilities so that desegregation may be carried out without lowering educational standards.
- (4) grants to public or nonprofit institutions of higher learning to meet or assist in meeting the cost of short-term training courses or institutes, not to exceed 4 weeks in duration for personnel of public schools or educational agencies engaged or about to engage in desegregation.
- (5) when the State threatens to cut off school funds or close schools, funds will be made available to local communities to enable them to comply with the decision of the Supreme Court.

For these and other purposes, designed to provide solid intelligent leadership to the cause of integrated public schools the bill authorizes not more than \$40 million for the fiscal year beginning July 1, 1959, and for each of the 4 succeeding fiscal years.

When States or local authorities have demonstrated their unwillingness to cooperate with the Federal authority in desegregation and this unwillingness is demonstrated through organized boycotts, threats or intimidation or other evidences of unwillingness to meet the clear intent of the Constitution and the decision of the Supreme Court, this bill authorizes the Attorney General to start civil action for preventative relief against those who deprive persons of their rights to equal protection of the law on account of race, color, religion, or national origin.

When the Secretary of Health, Education, and Welfare shall find that all efforts have failed to bring about desegregation, he is authorized to bring out a tentative plan. In preparation of this plan he must take into consideration the needs of the particular area and must seek local advice and assistance whenever it is available. He shall then forward his plan to the Governor, mayor, or other appropriate official. If the plan is accepted all assistance provided in the terms of this bill shall be made available to the local government.

If the local government does not agree to put the plan outlined by the Secretary into effect, hearings shall be arranged to which attendance shall be requested by registered mail and notices to private citizens shall be published in one or more of the local newspapers.

On completion of these hearings, the Secretary is directed by the provisions of the bill, to publish an approved plan in the Federal Register, one or more of the local newspapers, and transmit a certified copy to the proper official of the State or local government involved.

Title V confers power to file compliance action in school cases when the Secretary certifies that all efforts to secure compliance by conciliation, assistance, and otherwise have failed. Title VI first authorizes preventive action against those State and local officials acting under State law in cases involving denial of equal protection generally including school cases, but it provides the Attorney General may sue only on a signed complaint and when to his judgment the person aggrieved is unable to seek effective legal protection for himself.

In the event that a State, municipality, or local government unit has failed to meet the Federal Government's efforts and the Secretary has certified to the Attorney General that all efforts to secure compliance with the Constitution and

the decision of the Supreme Court have failed, the Attorney General is authorized to institute civil action including an application for injunction or other order against the individual or individuals who under cover of any statute, ordinance or regulation, custom, usage of any State, Territory, or subdivision deprives or threatens to deprive any person or group of persons or association of any right guaranteed by the Constitution because of race, color, religion, or national origin.

The bill gives to the district courts of the United States jurisdiction in proceedings under this act.

The tools provided in this bill; education, technical and financial assistance, negotiation and conciliation set up the machinery to promote orderly compliance with the decisions of the Supreme Court.

This bill goes all the way in the effort to secure compliance even to the point of providing financial aid in areas where desegregation would impose a financial burden. On the other hand, it gives to the Attorney General power to take the necessary legal steps when the community refuses compliance with the Constitution and the Supreme Court decisions.

Earlier, I have pointed to successful integration in Louisville where people of good will faced up to their responsibilities and intelligently worked out their own solutions of their problems. Although the spotlight has been focused on Little Rock, there were no headlines when the Medical School at the University of Arkansas was the first to integrate. Integration is being completed in all of West Virginia's school districts; it is progressing smoothly in Kentucky and Oklahoma; it is off to a successful start in Delaware, Maryland, and Texas. These facts point to the fact that there are people of good will who have recognized their moral responsibilities and assumed them. People of good will are the ones who are looking to the Federal Government, not only for leadership but as the only source of tools and encouragement to bring about the object envisioned in the civil rights bill of 1959: equal rights for all under the law.

In permitting denial to our citizens of whatever color or religion full opportunity to achieve the best that is in them, we have not only failed to live up to the principles on which we stand as a nation, we have cheated ourselves. This we cannot afford to do. I therefore urge speedy action on the civil rights bill of 1959. Moreover, in this year 1959—150 years after the birth of Abraham Lincoln—it is fitting that this bill, marking another milestone in the progress of human rights, by its enactment into the law of the land, serves notice on the world that leadership in the field of human rights is still ours.

STATEMENT OF D. R. (BILLY) MATTHEWS, EIGHTH DISTRICT OF FLORIDA

Mr. Chairman, I welcome this opportunity to state my opposition to any so-called civil rights legislation which is being considered by your committee. I realize that there are many proposed bills covering a wide variety of possible legislation, and I shall not burden the committee's record of hearings by attempting to analyze each of these proposed pieces of legislation which is being considered. The other body of Congress is likewise considering a number of bills in this same field.

The most common subjects which are covered in these proposed bills are three in number. First, there is the matter of financial and technical assistance to communities upon their request in carrying out school desegregation. I oppose with all the vigor and sincerity that I possess this type of legislation.

May I say, at the outset, that I feel the U.S. Supreme Court made a grievous error in its school integration decision. I feel that it is my right and my duty as a Congressman from the Eighth District of Florida to criticize that particular decision. I further believe that my right to criticize is an essential safeguard to the integrity of a free court, and I wish in the same breath to assert my belief in law and order and in the Constitution of the United States. In fact, as a Congressman, I am sworn to uphold the Constitution of the United States and as an American citizen, as well as a Congressman, I shall always be loyal to that oath.

I shall always maintain my belief, as long as I have breath within me, that it is the right of the sovereign State to have complete control over the schools within its State boundaries. I hold to the Jeffersonian principles of keeping the government close to the people, and certainly the schools of this land, as one of our most precious institutions, should always be free and independent from a central and autocratic control. Now under this proposal to give financial and

technical assistance to communities when they request such in carrying out school desegregation, the Secretary of Health, Education, and Welfare is given wide authority. The Secretary may make plans after public hearings, and if local school officials do not carry out the plans, the Secretary may then turn the problem over to the Attorney General, who will be discharged with a duty that I am sure would be repugnant to him, in that he would be called upon to enforce compliance with what should be purely a local matter. Surely we have learned from the brave citizens at Little Rock about their deep and abiding resentment of the strong arm of the executive branch intruding itself into the field of school education. The Supreme Court in its decision on school integration, and may I again repeat that I disagree with that decision, said in effect, that problems relating to school integration should be decided by the Federal district courts. I assume further that each school integration should be, if the people of the community want it to be, a case at court and should be decided by the court. Now to transfer this authority to the executive branch, in my opinion, merely compounds the error. There will be just that much more resentment and the cause of education for all of our people will be retarded rather than advanced.

Another matter with which these so-called civil rights bills are concerned is the suggestion that power to initiate court suits be given the Attorney General to force school desegregation. If such a power were granted, Mr. Chairman, there would be imposed upon the people in many of our sovereign States a dictatorship that would be so repugnant that the subject matter ought not even have the dignity of consideration. May I suggest that the strong arm of the Attorney General is needed so much more to help curb the tremendous growth of criminal activity in the United States. I have been told that the cost of crime in the United States is approximately \$25 billion a year. I submit that the Attorney General and those associated with him, who I know want to see the laws enforced, have their hands full with pressing problems that demand all of their time. I am sure they now need much more manpower than is available to them. How tragic that some of my colleagues in Congress are suggesting to the Attorney General that he depart from his constitutional field and be a party, by congressional action, to forcing down the throats of brave and free Americans a philosophy of life, or a sociological principle, that in the opinion of the sufferers has nothing in the world to do with law and order.

Now a third type of measure suggested by these bills for so-called civil rights legislation concerns the use of explosives. Language in certain of the bills would make it a Federal crime to possess or transport explosives with a knowledge or intent that they will be used to destroy buildings and personal property for the purpose of interference with their use for business, educational, religious, charitable, or civic objectives.

Now it is a crime, of course, at the present time in every State of this Union for any one person, who may be degraded or demented enough, to use explosives for the destruction of buildings and personal property. I am very proud of the fact that my own State of Florida, now during the meetings of its legislature, is considering legislation to implement our laws dealing with these matters. The objection I have to making the punishment of these crimes a responsibility, you might say, of the Federal Government is the terrible insinuation that my own State and the other States of the Union are incapable of appropriate police action. If we have to call upon the Federal Government for police action that logically belongs to our communities and to our States, do we not have the beginning of the dreaded Gestapo of Hitler? The great Edgar Hoover of the FBI certainly does not want this power, and I can't conceive of why any thinking American would like to see the police power of the States transferred to the Federal Government. I submit the fact that the States in our beloved Southland who are supposed to be disciplined by this terrible proposed legislation have as excellent a record of law enforcement as any other area in the country. Check, if you will, the records of murders, the traffic in narcotics, the illegal activities of vicious labor racketeers, the rapists, and you will find that our great section of the country has as good a record of law enforcement as any other section of the country.

So, in conclusion, Mr. Chairman, let me say again that I oppose all of these bills that actually, in my opinion, would not grant more civil rights to our people but would take away from the great majority of our people in the Southland rights that they now have. These bills would reduce the power of the States still further, and would tend to make us more and more the creatures of a despicable Federal autocracy.

STATEMENT OF REPRESENTATIVE ARTHUR WINSTEAD OF MISSISSIPPI

Mr. Chairman and members of the subcommittee, I appreciate the opportunity of appearing before you to make my position clear on the advisability of enacting any of the proposed so-called civil rights measures now under consideration by this subcommittee.

My position in the past on all so-called civil rights legislation which has been considered by the House of Representatives is well known. I have always felt, and still feel, that all legislation of this type is unnecessary and is an unwarranted invasion of the rights of the individual States to operate their schools and other facilities without the interference of the Federal Government. All of the so-called civil rights measures now being considered by this body are calculated to invade the reserved powers of the States. The destruction of our Federal form of Government will not promote civil rights—on the contrary, this legislation is a threat to the rights of all of us because it would magnify the power of the Central Government and destroy local independence—the surest bulwark against Federal tyranny.

It is a well-known fact that prior to the enactment of so-called civil rights legislation that the relations between the members of the white and colored races in the South were friendly and harmonious. The so-called civil rights legislation that has been enacted by the Congress and that “enacted” by the U.S. Supreme Court, together with the agitations of such groups as the NAACP, are sweeping away this friendly and harmonious relationship of the races in the South. In its place have come bitterness, misunderstanding, and suspicion, which have engendered tension between the races. It is my opinion that any legislation enacted at this session by the Congress in the field of so-called civil rights would have the effect of increasing the tension between the races.

I would like to call the attention of this subcommittee to a statement made by one C. R. Darden before this subcommittee on April 24, 1959. Darden is a resident of Meridian, Miss., and is the head of the NAACP in Mississippi.

According to my information, Darden, in his testimony before this subcommittee, said in effect that on the previous Wednesday (April 22) a bullet was fired into the house of one Albert Jones, Negro, of Meridian, Miss., because the said Jones had been active in registering voters.

The attached photostatic copy of the case report of the police department, Meridian, Miss., on the alleged incident shows that the alleged bullet fired into his house was a “bb” air rifle pellet. The police investigation failed to show that there was any connection between the firing of the bullet into Jones’ house and Jones’ activity in registering voters. The only allegation that there was any connection between the two incidents was made by the unsupported statement of Darden.

Wherefore, premises considered, I sincerely hope that this body will find it inadvisable to report out a bill at this time.

STATEMENT OF CONGRESSMAN WILLIAM JENNINGS BRYAN DORN

Mr. Chairman and gentlemen of the committee, I am unalterably opposed to any so-called civil rights legislation at this time in any shape, form, or fashion. The civil rights bill reported by this committee and passed by the Congress 2 years ago accomplished nothing except a division of our people when unity is needed. If these bills are passed, any of them, they will create further strife and discord. They will not promote civil rights, only hatred and racial unrest.

We need a breathing spell from agitation and political demagoguery. I hope this great committee will reject these bills and give us a time to heal the wounds of bitterness and turmoil in our educational systems.

STATEMENT OF REPRESENTATIVE JAMES C. DAVIS OF GEORGIA

Mr. Davis of Georgia. Mr. Chairman, I am glad to appear before this subcommittee in opposition to the group of bills you are now considering on so-called civil rights.

I would be lacking in candor, however, if I did not say at the outset that I am extremely disappointed at the makeup of this subcommittee. I question the wisdom of having a Civil Rights Subcom-

mittee for the purposes of considering civil rights legislation, composed exclusively of northern members, instead of having a balanced group with some southern members as well. My part of the country resents very deeply the fact that the South was deprived of its civil rights in the composition of this subcommittee, apparently so that there could be smooth sailing, with no adverse winds whatsoever, in the direction that the North is determined to steer the South in regard to so-called civil rights. May I point out that the chairman of the parent Judiciary Committee could have chosen one or two or several southern members for his Civil Rights Subcommittee from among the 11 southern members of the Judiciary Committee.

There are five standing subcommittees of the House Judiciary Committee. Subcommittee No. 5 is the only one of the five standing subcommittees that has no southern members. It is interesting to note that these bills on so-called civil rights were assigned to the only one of the standing subcommittees which does not have a single southern member.

Gentlemen of New York, New Jersey, Massachusetts, Pennsylvania, Ohio, Michigan, and Colorado: as my friends and colleagues I can tell you that it certainly appears as if this subcommittee is out to reconstruct the South to a new way of life, northern style and, I suspect, preferably the New York City way. I regret this very much. It will be interesting, if not exactly comfortable, to see how this northern Subcommittee on Civil Rights works its absolute will upon the unrepresented South. I, for one, will not stand idly by and unconcernedly accept such an unfair state of affairs. Our conscience as Christians and our birthright as Americans cries out against, and I vigorously denounce, such injustice.

As an American who believes that the Constitution is still a valid document and as a lawyer member of Congress who believes that real justification should be presented for a new law to be appropriate, I oppose most strongly the package of bills on so-called civil rights that you have before you. I oppose these legislative proposals most vigorously because, in my opinion, they are unconstitutional and unnecessary.

The whole tenor of these legislative proposals violates the 10th amendment of our Constitution, our Bill of Rights, as well as the 1st and 5th amendments, and tyrannizes over States rights. Passage of such so-called civil rights legislation would gravely jeopardize our dual sovereignty concept and greatly complicate Federal-State relations. It would adversely affect the balance of power, the checks and balances, in our Government. It could effectively prevent peaceable assembly to demand redress of grievances. It could place a gag on freedom of speech. It could deny due process of law.

To take an example, the Celler bill, H.R. 3148, authorizes the Attorney General to "institute," that is, initiate, in the name of the United States, a "civil action or other proceeding" for "preventive relief," including an injunction, against any person who "deprives or threatens to deprive" any person or group of "equal protection of the laws." Such injunctions and other actions need not be demanded by an affected or interested party as heretofore. The bill says, according to "color of any statute, ordinance, regulation, custom

or usage." This bill gives the Attorney General a blank check. All landmarks are destroyed, no guideposts are left standing or are provided.

Along this line also, in the same bill, the Attorney General is further authorized to institute civil action "or other proceeding" against any person "preventing or hindering or threatening to prevent or hinder" the "giving or securing" of "equal protection of the laws."

One obnoxious provision of this particular bill which is destructive of States rights and responsibilities, is section 3. This provides that the district courts of the United States, rather than the State courts, "shall have," not "may have," jurisdiction of the proceedings referred to earlier in the bill, such as civil actions, etc. This exercise of authority by the U.S. district courts, the bill further provides, shall be made "without regard" to whether "any" administrative or other remedies provided by law have been "exhausted." If this bill is enacted into law, the Congress would in effect be scuttling the Constitution and prescribed, orderly, legal procedure.

Like so many of these new attempts at reconstruction of the South, like many another attempt to reduce the South once again to the status of conquered provinces, like the many obeisances to the trouble-making NAACP, H.R. 3148 waxes hypocritical, too. Section 4 of the bill reads:

Nothing in this act shall be construed as impairing any rights secured by the Constitution and laws of the United States, or any remedies already existing for their protection and enforcement.

The whole bill together with the others in this group, violates the Constitution explicitly and implicitly. No disclaimer of the sort which makes up section 4 will turn the bill into a constitutional one or in any way make it more palatable or acceptable to those who regard the written Constitution as a valid document.

H.R. 3147 is an unvarnished effort to cast States rights—or what is left of them—completely to the winds. The bill would do this by, among other things, specifically accepting and embracing the decisions of the radical Supreme Court as expressing "the moral ideals of the Nation" and as pointing the way to "strength and dignity at home" and "honor and prestige throughout the world".

H.R. 3147 would outdo even the Supreme Court in radicalism.

The bill would force Congress to get on record as believing the fallacious contention of the extremist apologists, propagandists, and whitewashers of the Supreme Court that the unconstitutional antisegregation decisions of that Court correctly reflect "the supreme law of the land" and would, under the interpretation of this section, constitute the so-called "supreme law of the land." See lines 16 and 17 on page 3.

Lines 21 to 25 of page 3 also seek to gain universal recognition and approval of the Federal branch's usurpation of the States rights field. The already tenuous reed upon which our dual sovereignty system rests today would be knocked out if this bill is enacted.

The implementing titles of H.R. 3147 would effectively abolish States rights in many fields, notably that of public education. Title II would turn back the clock almost 100 years to make the Secretary of Health, Education, and Welfare a super Thaddeus Stevens to create

a second Reconstruction period, another tragic era. Carpetbaggery rears its ugly head once again with this bill.

The Secretary of Health, Education, and Welfare would be empowered by this bill to build a vast bureaucracy for the purpose of making periodic forays into the Southland to conduct missionary activities, at public expense, by paid busybodies from the North. This would be accomplished by "assembling, publishing, and distributing information which, in [the Secretary's] judgment, will prove helpful in obtaining public understanding of, and compliance with, the Constitution and decisions of the Supreme Court in the field of public education." Also, snooping around the country by trained propagandists for race mixing would be financed from the Treasury for the stated purpose of "surveying the progress made in eliminating segregation in public education. The bill provides unlimited prying into local affairs and intimidating local communities into accepting integration.

Regional conferences to discuss ways and means of forcing integration upon unwilling communities would be held at the expense of all the taxpayers—those from the South, as well as all others. People would be forced to act against their own interests, to pay for that in which they do not believe. Specialists and experts at race mixing would be recruited, trained, and set loose to wreck havoc, and all this at taxpayers' expense. The Secretary is authorized by this bill to reimburse professional race mixers and other agitators, who may attend these regional conferences and spread their poison there, out of public funds.

Title III, assuming that the South is for sale, would carry on a sort of "foreign aid" program for the South, except that here even the misnomer "mutual security" cannot be used. This foreign aid to the conquered southern provinces, as Taddeus Stevens would have had it, would make financial grants to areas where desegregation, as opposed to segregation, is being carried out. These grants to States, municipalities, school districts, and other local governmental units would be for the purpose, the bill says, of assisting in "meeting the costs of additional educational measures undertaken or to be undertaken to further the process of eliminating segregation" in the applicant States. The large amount of money required would go, among other things, into costs "directly related to the process of eliminating segregation" in the public schools. This would include—and I call attention to this—"replacement of State payments" to a school district or other political subdivision which may have lost its grants from the State because it has integrated contrary to State law. Public funds from the Treasury could also be used, under this infamous bill, for the construction, enlargement or alteration of school facilities where the furthering of integration would warrant. This again would effectively abolish States rights as well as peace and order in my part of the country. It could thwart the intentions of every State of the Union. They would be reduced to a status less than conquered provinces.

The Congress and the Executive have joined in the attack on States rights. The passage, in an atmosphere of bogus sanctity and mock legality, of the miscalled civil rights bill in 1957 was shortly

followed by the subjection of a once-sovereign State—Arkansas—to bayonet rule, which continued for a period of over 9 months.

H.R. 4457, is called the administration bill.

One obnoxious provision of this bill is title VI providing for education of children of members of the Armed Forces. This provision would amend Public Laws 815 and 874 of the 81st Congress to authorize Federal payments to school districts in federally impacted areas so as to provide integrated school facilities, or otherwise, off the Federal grounds or Armed Forces base, in possible violation of State law which may have required the closing of all public schools in the State in order to avoid integration. These off-base schools would be operated at public expense. This could mean that the Federal Government, by sending out its Armed Forces personnel throughout the country, could in a sense compel integrated schools to remain open or be opened in certain areas, in contravention of State law. A new Federal Commissioner, under title VI, could force the leasing to the Federal Government of certain school buildings not being used because the schools in the area may have been closed under State law so as to avoid integration. These schools, when reopened, would be operated on a desegregated basis. The school buildings which would have to be leased to the Federal Government as a matter of course would be those which received any Federal funds at all in the construction of the facility. To those who wonder about objections to Federal aid to education or regard opponents of certain grants-in-aid as unreasonably disturbed, this provision ought to enlighten them as to the facts of the situation.

The evidence is persuasive that massive Federal aid to education, which has been and is being promoted in the guise of a national security measure, will surely and inevitably result in a very few years in total Federal control of the public schools—not only control over who attends them and what building may be used against the wishes of the State, but control over what is taught in them. With all the resources at my command, I intend to combat and, if possible, help to defeat this subtle attempt to transfer control of our public school systems, step by step, from the States to the Federal Government. After all, one of the most vital functions still remaining in the hands of the States is public education. It should be remembered also that education is one of those functions traditionally reserved to the States. Any change on this matter would be revolutionary and would be subversive of the 10th amendment, as well as of the whole spirit of Federal-State relations and the dual-sovereignty concept sanctioned by our Founding Fathers. This is a most serious matter. Upon the safe preservation of our time-honored States rights rests the fight for freedom and the viability of a great Nation.

Title VI in the proposed Civil Rights Act, H.R. 4457, is also most objectionable for it seeks to buy compliance to the unconstitutional Supreme Court desegregation decision. It would provide "technical assistance," like the other bills described, to speed up and enforce integration. Bribery has always been a recognition of failure to do something by honorable and accepted means. Now, by dishonorable and devious means—unacceptable to the great Southland—the Federal Government is attempting to bribe the States with money to let the Negroes loose in the white schools and throw the whites and

blacks together in a condition of enforced association and socializing.

The rest of the bill is undesirable and unacceptable also, from the provision to extend the life of the so-called Federal Civil Rights Commission to the erection of yet another "civil rights" agency, the proposed Commission of Equal Job Opportunity Under Government Contracts. All this would cost much more and provide another breeding ground for radical, unconstitutional ideas regarding so-called civil rights. There is no excuse in any case for extending the life of the Civil Rights Commission by 2 years. That group has proved itself thoroughly bankrupt of any effectiveness. The complete inefficiency and ineffectiveness of the Commission would seem to have been fully attested to when every one of the five original members stated they would refuse to accept reappointment after September of this year, when the original contract expires, if the Commission is extended. If this body is important or has been doing good, it would seem that its civic-minded members should be willing to continue to serve. I believe that creation of another "civil rights" commission would be just another ineffective, expensive boondoggle.

A final provision of H.R. 4457 to which I refer briefly is the requirement that election officers keep all their voting registration records for 3 years and submit them to the Attorney General any time within that period upon his pleasure. This infringes unduly upon States rights, reflects on the integrity of State officials, and creates additional administrative difficulties to the States.

Other bills in this group you are now considering are no more desirable than those to which I directed my attention in these remarks.

That the proposed legislation you have before you, besides being unconstitutional, destructive of States rights and divisive of our countrymen, is also silly and unneeded, is beyond question in my mind. Some advocates of the type of legislation proposed here have tried to create sectional prejudice. Some have promoted the false theory that the South, my section of the country, is prejudiced against Negroes and has denied them equal rights in education, jobs, housing, justice in the courts, and otherwise, while people of the North, East, and West in direct contrast, eagerly extended to them the right hand of fellowship and gave them a warm welcome into schools, churches, offices, factories, and neighborhood community life.

In both respects these claims are false, and that attitude is false.

Some professional liberals and professional South haters have had the gall and effrontery to assume a holier-than-thou attitude toward the South, and to deal with this question on the basis that it can be assumed without argument that the southern people hate Negroes, and make a practice of murdering them, cheating them, oppressing them, and depriving them of civil rights.

Whether this attitude stems from ignorance, political considerations, or an evil heart and mind, I do not know. I do know that such an assumption is unfounded, and I want to give you some facts in support of the proposition that the Negroes in the South (and the great bulk of them do live in the South) have fared better and received more consideration from white people than those who have left the South and gone to other sections of the country in search of the Promised Land. I ask you gentlemen to read this essay, "Goodbye, Uncle Tom,"

for example, written by a native southerner now living in California, and reprinted in U.S. News & World Report, September 5, 1958:

"GOOD-BYE, UNCLE TOM!"—AN ESSAY OF LAMENT

(By Joseph Hayes Jackson)

(There is talk in the press of race hatreds. There is argument about "equality" and "inferiority." But the true feeling of the white people of the Southland toward the Negroes living among them is not expressed in court decrees or in abstract theories of constitutional "rights." Rather it is an inarticulate emotion that transcends the controversies of our day.

(The "Essay of Lament" which is presented here was written by Joseph Hayes Jackson, a Kentuckian, formerly a professor of English in a South Carolina college and later in a California university. He now is a member of the staff of a public relations firm in San Francisco.

(The thought in this essay is something the South understands and wishes the North could understand, too—that racial bitterness between whites and Negroes has never been characteristic of the South.—David Lawrence, Editor.)

They've done it, Uncle Tom, nine old men up in Washington; nine old men who knew nothing about us; nothing at all. They knew nothing of what you meant to me, I to you, we to each other. They never went fishing with us. They never had you to show them how to bait a hook, and then just where to drop it in the sycamore shadow below the dam. You never showed them how to make a figure-4 trigger for your rabbit trap with only a pine switch and a barlow. Remember all the things you taught me?

Remember how you cautioned me when coming to a field fence always to prop my .22 on the opposite side, and to crawl over emptyhanded? Remember the time I ran a rusty nail in my foot? I thought I was going to die of lockjaw, but you just poured on a lot of turpentine, and told me to forget about it. Well, I forgot about the lockjaw, but I never forgot how you told me always to use turpentine for any cut that drew blood.

Of course, such things would hold no interest for the nine old men. Such things to them would be unimportant, trivial, inferior. That's it, inferior. What do the nine old men mean by inferior? Because, Tom, they say they are afraid you feel inferior, because you're black. Funny you and I never considered such things. Certainly, I never did, as I looked up to your towering wisdom in just about everything. And furthermore, as I now look down from the altitude of old age, I don't think you ever did either. What do the nine old men mean, inferior?

Seems to me, as I look back to those early days, I was always learning something from you, something for my good, that is. "If you gotta fight, Joe, fight fair. Fight fair fist." Remember when you told me that, Tom? Remember how you used to come up behind me when I was playing checkers, losing as usual until you came along? Then you would start coaching. "Look, Joe. Put that man there; now that one over there; now give him a jump; hah, now take three, an' git your king." Again I had won, but it was your playing. And your reward was a hearty, body-rocking laugh I shall never forget.

It was on one of these occasions that I learned something else from you, something better than just winning. I thought no one saw me when I moved a piece out of turn. But you saw me. That was enough. I'll never forget the bawling out you gave me then and there, nor the anger in your face. It was one of the few times I was ever afraid of you.

"Ain't no game worth cheatin' for, Joe, no game," you shouted. "Better lose fair than win cheatin'." And soon followed what I dreaded most. "I ain't never going to help you no more. You kin just lose. I ain't going to care, no more, never."

How relieved I was a few minutes later when your smile broke through, and you told me for this once I was forgiven, only never to forget. I never did.

As far back as I can remember, Uncle Tom, you were my trusted friend, knowing, kind, understanding. And your superior wisdom was always ready to serve me when needed. It was when I was going away to college that you gave me some final good instruction. It was pretty much a summary of all you had been teaching me from the beginning. I didn't know then that we'd never see each other again. It occurred to neither of us that such a thing

could ever be. Maybe it was because you were 68 and I was 18. To such ages life often seems eternal.

Well, Uncle Tom, that was all long ago. It's almost a half-century since you played your last checker game, or helped enrich the life of a little boy. I had to lose you, of course. No arguing with death. But sometimes death may add emphasis to rich memories. Your going did that to my memories of you, Uncle Tom. It was pleasant to sit and think, to picture what it would belike to go back and do it all over again. And, of course, to go back and be a boy again would mean you would be there, too. It was very pleasant to sit and dream in the sunset.

I have to say "was." Because of the nine old men, I am forced to say it. Because, Uncle Tom, what you and I had can never be again. Why, the nine old men wouldn't even wish me to call you "Uncle." It would make you feel *inferior*, and they say it's unconstitutional to feel *inferior*.

There it is again, *inferior*. Why does it keep bobbing up? What does it have to do with color? That's one thing you failed to teach me, Uncle Tom. Nor have I learned from later experience, in contact with men of your color, whether through reading about them or through personal acquaintanceship.

Years ago, I was honored to meet a grand old man whose kindly face and cultured speech I shall never forget. His name was James Weldon Johnson. I don't think he would have understood any implied connection between his color and inferiority. And what about Paul Lawrence Dunbar, Booker T. Washington, and George Washington Carver? Any connotations of inferior there? Do Jackie Robinson, Joe Louis, "Satchmo" Armstrong, and Rex Ingram think black is an inferior color? And what about all the men and women, in sports, in business, entertainment, in all the professions, all over the country, East, West, North, South—especially in the South when permitted to do their own thinking free of needling from higher latitudes—in every arm of the Nation's service? Do they feel inferior because of less bleaching than some of their neighbors show through lack of vacation sun tan? Why bother about the quibbles of nine old men?

It's not what they've said that matters. It's what they have done. For what they have done, Uncle Tom, there can never be any going back, not even in memory. They've laid open a deep chasm between your people and mine that no ingenious building of theirs can ever span. Could I go back, I should look for you in vain. The respect for your wisdom, desire for your companionship, and the comfort of our mutual affection would all be there in memory, awaiting only your presence to give them reality. Awaiting in vain, though. You've been abolished. And right here comes the bitter realization that never again, in fancy or in fact, can you be.

What a pity that no boy can ever know, as I knew what it is to have an uncle like you! And so, for all the little boys yet to be, regretfully I say to you. "Goodbye, Uncle Tom."

In contrast, consider what so often happens to the Negro when he goes north. It is a cruel fact that the hypocritical representations of some contemptible politicians seeking Negro votes have created false hopes in the minds of southern Negroes. Some Negroes have accepted these hypocritical statements at face value and are moving into such areas as New York City; Chicago, Ill.; Detroit, Mich.; Columbus and Cincinnati, Ohio, and elsewhere, believing that they will be accepted into schools, churches, and all phases of community life.

When they arrive, they find the opposite is true. They are herded into squalid tenement quarters like cattle. They are overcharged. They are cheated. If they settle in a white neighborhood, the white people rush to move away as if the bubonic plague had struck the community. Although Negroes there are not segregated by law, they are segregated by reason of residence, and the only way their children can be sure of attending nonsegregated schools is for the school authorities to haul Negro children from Negro communities, past Negro schools, and enter them in white schools in white communities, and on the other hand to haul white children from white communities, past white schools, and put them in Negro schools in Negro communities.

Any unbiased and objective study of the race question will show that where there is any appreciable number of colored people, generally the same attitudes exist and the same feelings are held, whether it be Detroit, Chicago, New York City, or below the Mason-Dixon line. One difference which exists is that people in the South are less hypocritical, and deal with the problem more realistically than people in other sections, to whom the problem is a new one.

Whatever opposition may exist in the South to integration with the Negro, has its counterpart in the North. The thinking people of all sections know this.

The people of the North can help most, we believe, by cleaning up their own mess, and this process might well begin with a general soul searching to discover what residues or prejudice remain there. When Harlem has been desegregated, when Negroes have been welcomed as neighbors in the present suburbs of New York and Chicago, when Chinese and Filipinos have been made to feel at home in San Francisco's Sea Cliff and Pacific Heights, there will be time enough to point a finger at the South.

That editorial writer faces the facts, and admits the truth, that there is no warmer welcome for desegregation in New York, Chicago, or San Francisco than there is in the South.

I do not, of course, have time to go into this situation in the great detail which the facts bear out, and in support of which thousands of instances could be cited from every section of this country. However, I do want to go into it to a sufficient extent to satisfy any fairminded person that I am not dealing in isolated instances or referring to rare and unusual occurrences.

Former Senator Herbert Lehman, of New York, a supporter of integration, on June 3, 1956, speaking at an Urban League meeting in New York City, said that conditions in Harlem, a large Negro and Puerto Rican community in New York City, are "a rebuke to us of the North." He further told them that "Harlem is an area of poverty, congestion, substandard housing and substandard schools." This is not the statement of a northerner talking about the South. It is not the statement of a southerner talking about the North. It is the statement of a former Governor and Senator of the State of New York talking about conditions existing in his home State and city.

The Christian Science Monitor carried in its issue of June 12, 1956, an article written by Mary Hornaday, bearing the title "Barriers Confront Negroes Seeking Housing in North." She quoted Alan S. Paton who wrote a survey of the "Negro in the North" for Collier's magazine, as saying "the cry of the Negro is no longer 'let my people go': it is 'let my people in'."

I quote the following from her article:

FREE CHOICE DENIED

Here in New York City, where Negroes make up about 20 percent of the Manhattan population, they are still almost completely excluded from a free choice to buy or rent homes in the open competitive market. The Protestant Council of the city of New York recently found that 22 of the city's 27 major real estate operators turned down Negro applicants for apartments, though accepting white applicants of the same economic status.

Into New York's Harlem are crowded more than a quarter of a million Negroes from the Southern States, West Indies, and Africa. Negroes began to move into Harlem in 1901 as a result of a deflated boom in real estate. Hun-

dreds of families deserted tenements on the west side to move into apartments built by speculative real estate promoters. Today Harlem contains Sugar Hill where affluent Negroes live in dignity and comparative splendor but it also contains some of the most notorious rat-ridden slums in New York.

I take it that these statements are true. Certainly no one would undertake to accuse the Christian Science Monitor as being either pro-southern or antinorthern—it is right in the heart of abolitionist country.

One June 12, 1956, Mr. Hal Dumas, formerly executive vice president of the American Telephone & Telegraph Co., in New York City, said in a speech to the Atlanta Rotary Club that except for public transportation, segregation is just as strong in New York City as any place in the South. He said:

They make a great effort to condemn segregation in the South, but it (New York) is the most painfully racial and religious clique-minded town in existence.

Some writers who have devoted study and thought to these problems feel that Chicago gives New York City keen competition in the field of segregating Negroes. In the Christian Science Monitor of July 16, 1956, a news item by James K. Sparkman quoted a Negro director of the Urban League as saying that Chicago "is the most segregated city in the North," and that Negroes in Chicago "are situated in the middle of the Nation's largest racial ghetto."

He quotes the same Negro spokesman as saying that Negroes pay 30 to 50 percent more than a white man would pay for the same housing and that:

"Negroes are not only denied freedom of movement, but they are ruthlessly exploited, overcharged, overcrowded, and disproportionately forced into slum living."

According to the most recent finding made on the racial situation in New York City, published in U.S. News and World Report, de facto segregation is more rampant than ever in the big city. The biggest city in the Nation, apparently "still lacks equality in the public schools." The conclusions of Judge Justine Polier in New York are that "discrimination exists—many schools have over 85 percent non-whites, and get less-qualified teachers" as a result. She ruled in a case where two Negro students were withdrawn from all-colored schools because of "discrimination," of all things.

Both Negroes and whites when left alone will voluntarily segregate themselves as to schools, churches, dwellings, and social affairs. This is demonstrated by the segregated pattern which is followed in New York City where the cheap politicians and the meddlers are now trying to bolster up a sagging integrated program by hauling bus loads of Negro children from Negro neighborhoods to white schools and bus loads from white neighborhoods to Negro schools, and by putting on a program of forced integrated dancing among the pupils as they are doing there. The silliness of such actions cannot be overemphasized.

This tendency of the races to voluntarily segregate themselves is proven here in Washington where in spite of all the frantic efforts to force integration of the races in schools, the introduction of Negroes into a white school does not turn it into an integrated school—it turns it into a Negro school within the course of a few years, just as fast

as the white people can make arrangements to uproot themselves from the community and reestablish themselves over in Virginia where they are not plagued with this crackpot theory of forced integration. These things are the facts of life, and it is far better to settle them peacefully than it is to push things to the breaking point where law and order breaks down and violent rioting with its tragic consequences takes place.

In 1951, the International News Service reported that an anti-Negro mob of 10,000 milled about an apartment building in Cicero, Ill., a west Chicago suburb.

These 10,000 Illinois people were stirred to a mob violence pitch because a Negro war veteran undertook to move his family into an apartment building in a white neighborhood. This news item stated that Illinois National Guardsmen were lined up four deep holding back the crowd with guns and fixed bayonets, and that at least six persons were bayoneted by the guardsmen. The mob which began on Wednesday with 3,000 people, grew to 10,000 by Thursday.

In February 1957, as the House Judiciary Committee was holding hearings on so-called civil rights legislation at that time, riotous demonstrations were taking place night after night in Detroit to protest a Negro moving into a white neighborhood. These demonstrations began on February 11, 1957, and continued nightly, the crowds ranging up to 250, and requiring 25 policemen to prevent breaches of the peace. The demonstrators were not only demonstrating in front of the house of the Negro, but also demonstrated in front of the home of the white woman two blocks away who sold the house to the Negro.

Feeling between the races became so intense in Detroit in 1943 that the worst race riot in the Nation's history occurred there. I hold no brief for race riots. I have never seen a race riot. I have never been near one. I hope I never see one.

Race riots, of course, are illegal. They occur only when normal restraints are discarded, when respect for law and order is overcome by emotionalism. A race riot, or any kind of riot for that matter, is the final culmination of a feeling that anything is better than submission to the impending event.

We in the South have maintained all along that by reason of our experience with the race problem, we know better how to keep down race tensions, race riots, and ill feeling between the races, than those people in other sections who have not had the experience, and to whom the problem is a new one. We believe we are correct in this attitude. I think the riots in Detroit; Cicero, Ill.; the Trumbull Park housing project in the South Deering section of Chicago; the lake steamer riot in Buffalo, N.Y.; the situation in Dearborn, Mich., where no Negro is permitted to live, and the evidences of race tension in many cities and areas throughout the North, East, and West demonstrate the correctness of our views and position on this serious problem.

As to the recent event in Mississippi, we are all shocked, of course, by the abduction of a Negro from a county jail by an armed gang in Poplarville, Miss. It might be pointed out that this is the first time such a thing has taken place in Mississippi in 20 years and in the South in at least 3 years. Until the integrators became so rabid,

such tragic incidents had declined and ended. Now, as predicted by those of us south of the Mason-Dixon line who have lived closest with the situation, race relations have deteriorated, and some people undoubtedly feel that they have their backs against the wall. The South is a peaceful, friendly, courteous, kind, and Christian community. I say to my friends in the North, stop driving us against the wall. Leave us alone. Stop harassing us with these silly nostrums with a northern label.

There are some things which just cannot be forced upon people, North or South. Mayor Orville Hubbard, of Dearborn, Mich., told a newspaper reporter in an interview in regard to Negroes moving into that city:

That can't get in here. We watch it. Every time we hear of a Negro moving in—for instance, we had one last year—we respond quicker than you do to a fire. That's generally known. It is known among the Negroes here.

He was asked if the NAACP ever called upon him, and he answered: "No we'd chase 'em to hell out of town." He also is quoted as saying:

The politicians have made the race question a football. It's hot up here, but we've taken an open stand in our community. Detroit hasn't done it; they're in a hell of a mess. We're for complete segregation, no ifs, ands, or buts about it. That is my position, and I tell the Negroes the same thing. I say we don't have equality among the whites, and you don't have equality among the Negroes. Why stir up something when you are getting along all right?

Regarding the 1943 Detroit race riot, the U.S. News & World Report of May 11, 1956, said:

On that occasion, roving gangs of each race terrorized downtown Detroit and other parts of the city for 3 days—shooting, stabbing, beating, and looting. Before the U.S. Army could restore order, 25 Negroes and 9 whites were killed, 700 persons injured and millions of dollars' worth of property damaged or destroyed.

That magazine in the same issue, May 11, 1956, quoted a Detroit Negro paper as follows:

Detroit seems to be rapidly returning to its old pattern of a few years ago, when we lived from crisis to crisis * * * in the last 2 years there has been an unmistakable resurgence in organized resistance to Negroes based upon color prejudice * * * no effort is made to correct tragic mistakes in attitudes which can only lead to the destruction of our whole town.

Another example of the resentment which the white people of Detroit have against Negroes moving into white sections is the occurrence in October 1955 when a Negro couple with three children moved into a home on Chalfante Street. A mob of about 1,000 white people collected and threw rocks at the home. Two policemen were injured. The family sold the house and moved. This was reported in the Sunday Star on May 13, 1956.

The mayor of Dearborn, Mich., stated some time ago that he would chase the NAACP out if they called on him because they were stirring dissension. But the NAACP may still call upon the mayor of Atlanta and do, the Governor of Georgia, and any other public official in our State at will. They hold regional meetings in Atlanta, in Birmingham, Ala., New Orleans, La., without any trouble at all. And while we know they are troublemakers, and while we know that more than 41 percent of their officers and board of directors are listed in the

records of the House Un-American Activities Committee as having connections with subversive organizations, and while we know that their program closely parallels the platform of the Communist Party, they are free to come and go as they please in our section so long as they are orderly and do not violate our laws.

We know, of course, that there is a breaking point in this problem of good race relations. We know that if attempts are made to force things beyond this breaking point, by legislation, executive orders, or judicial decisions, there finally will come violence. It is to avoid this tragic result that we are so vigorously protesting this legislation.

It is hypocritical for so-called liberals in other sections of the country to point an accusing finger at the South and say we are more intolerant and have more racial antagonism than other sections, in the face of such occurrences as fights between 300 white and Negro high school students at the Kansas Municipal Stadium on April 24, 1956; a fight between about 200 white and Negroes, with thousands of spectators milling about, in Asbury Park, N.J., on July 2, 1956; a fight between white and Negro sailors in Honolulu on June 9, the same year, resulting in the death by stabbing of one white sailor; fighting between white and Negro Air Force recruits in Crocker, Mo., on June 1, 1956; a racial disturbance in Muncie, Ind., on June 10, 1956, resulting in the closing down of a newly integrated swimming pool in that city; Memorial Day race riots in Crystal Beach, Ont., which was referred to in newspaper stories as "a nightmare of flashing knives and sobbing, frightened passengers"; a riot at Newport, R.I., among 1,500 white and Negro sailors and marines, their wives and women companions, on September 18, 1956, which completely wrecked a club and sent 15 sailors to a hospital; 1,100 taxi drivers in St. Louis going on strike on August 18, 1956, in protest against the hiring of Negro taxicab drivers. On July 25, 1956, a Toronto judge upheld an apartment house owner in his refusal to rent to a Negro; cross burnings and court hearing in Columbus, Ohio, on November 14, 1956, resulting from Negroes moving into a white section in Columbus; banishment of a Negro woman and eight children from Cleveland, Ohio, on June 8, 1956, although the woman tearfully protested she didn't want to return to Alabama.

Ohio seems to be learning something about the race problem. On August 1, 1956, a Negro, one I. W. White, Jr., executive director of the Council To Aid Migrant Workers in Cleveland, wrote a letter to an Alabama schoolteacher advising him to urge his pupils to stay in the South instead of coming North. He was reported as having said that "the exodus North of southern Negroes has hurt the battle of Negroes to obtain 'first class citizenship' ". The Ohio Supreme Court on April 18, 1956, upheld an amusement park near Cincinnati in refusing to admit a Negro.

The papers are constantly carrying news stories of similar occurrences and of racial problems in the North, East, and West. Several years ago Sgt. John Rice, an American Indian who was killed in Korea was refused burial in a privately operated Sioux City, Iowa, Memorial Park Cemetery. Burial in that cemetery is limited to Caucasians only and the body of the American Indian sargeant was finally interred at Arlington National Cemetery. Time does not permit me to give anything like a recital of all occurrences of this nature

even for only 1 year. I have taken the time and trouble to give you merely a few of those which occurred in 1956 before the first civil rights bill was passed. Our warnings then were ignored, with some disastrous results. Let us review briefly some specific instances of northern segregation, racial tension and worsened race relations since then.

Since the last civil rights bill was passed 2 years ago, there have been numerous instances of segregation and race tension occurring in the North. Indeed, there were so many that it would seem that further reason is provided thereby against more civil rights legislation of this kind. Manifestly, it does no good. It incites, instead of placates. What is needed now, as the following instances will testify, is a return to the Constitution. Radicalism has been allowed to run rampant long enough. One wonders when the professional liberals, civil libertarians, and race mixers will realize that you cannot legislate mores and feelings and customs. They spring forth with the people. You cannot change a way of life by legislation. Laws, to be accepted and effective, must follow fact and custom—not the other way around, with custom and tradition being expected to change radically because a law is passed to that effect.

One of the outstanding examples of race tension and deterioration of race relations could be seen in Detroit last month. The doctrinaire race mixers had gotten to work and had tried to impose their own views on everybody. When they applied their philosophy even to such an unimpeachable object as the Detroit police force, there was combustion. This is what happened in Detroit.

On March 1, for the first time in Detroit, white policemen were assigned to ride with Negro policemen in squad cars. Immediately, a slowdown strike by police was produced. The rate of tickets for minor traffic violations dropped. The explanation turned out to be, according to U.S. News & World Report, March 16, 1959, that some white policemen had met secretly after the order for integrating patrol cars had been issued, and planned the slowdown strike as a means of registering their protest. Prior to March 1, patrol cars had been segregated. These strikers against integration, mind you, were policemen—law-abiding citizens and, indeed, law enforcers.

In Wilmington, Del., recently, a city with predominantly northern attitudes—when a Negro family moved into a white suburban neighborhood, a crowd of white people gathered in front of the home February 24, and hurled stones through the windows. Firecrackers exploded, and for several days there were demonstrations in front of the house. Police had to erect barricades around the house and stand guard. On March 3, several hundred white people met and decided to adopt different methods. They agreed to boycott Negro tradesmen in the area and all merchants serving the Negro family. They also contributed money to support a legal battle against Negroes moving into their neighborhood. All this was reported in the press and received considerable attention in that unbiased news magazine, U.S. News & World Report, March 16.

In Evansville, Ind., a Negro minister is reported to have said that he had been "wrongly arrested and jailed" for trying to get his shoeshines in an Evansville barbershop. The minister was charged with disorderly conduct for his action. He claimed that he had been told

at the barbershop, "We don't give colored people shines in this shop." This happened in Indiana—not in the shade of the magnolia tree in Mississippi, South Carolina, Alabama, or Georgia. The race problem is now moving North, as Negroes move up North. The North is having its lessons in race relations and race problems.

Chicago is one of many examples of northern segregation. This northern city has more than 100,000 Negro pupils. Yet, the National Association for the Advancement of Colored People claims that 91 percent of all elementary pupils in Chicago attend schools that are predominantly of one race. Segregation in Chicago is increasing, instead of diminishing. Of 355 elementary schools listed in the 1956 school directory, 32, or 9 percent, are mixed racially; 250 or 70 percent, are predominantly white (90 percent or more non-Negro pupils); 73, or 21 percent, predominantly Negro (90 percent or more Negro pupils).

The 14,673 Negro pupils in the 32 mixed schools constitute 12 percent of the estimated total number, 117,582, of Negro public-elementary-school pupils.

There are an estimated 1,002, less than 1 percent of the total, Negro pupils in predominantly white schools. Thus, 87 percent of the Negro elementary schoolchildren were in predominantly Negro schools in the spring of 1957. The number of pupils, Negro and non-Negro, in the 32 mixed schools was 31,236, or 10 percent of the total enrollment of 322,864 elementary school pupils. In other words, 90 percent of Chicago public-elementary-school pupils attended de facto segregated schools. If other minorities were grouped with Negroes, the degree of segregation would, of course, be even higher.

Now, in New York City, the nerve center of so-called liberalism and integrationist sentiment in the North, the Civil Rights Commission found "widespread discrimination" in housing last January. The Reverend Theodore Hesburgh of the Civil Rights Commission said that he found the most startling testimony about conditions among the Puerto Rican residents of East Harlem, who were apparently being discriminated against by the Negroes in the area.

A most revealing study, released April 5, after a year-long scientific survey by the Market Planning Corp. of New York, shows that the increase in the Negro population of Newark, N.J., by about 100 percent in the past 8 years, the attitudes there have changed perceptibly, too. Today, Newark is 34.7 percent Negro, as against 17.2 percent in 1950 and 10.8 percent in 1940. The survey shows that from 1950 to 1958, the number of whites in households fell from 348,856 to 255,797, a decline of 93,059. During the same period, the study disclosed, the Negro population jumped from 68,316 to 141,914.

In their interviews with 4,000 family heads, the researchers in Newark learned that some two-thirds of the whites interviewed opposed the idea of Negro families moving into the white neighborhoods—and this is Newark, N.J. Asked about the effect of property values when Negroes moved into white neighborhoods, 75 percent of the white homeowners said that values take a dive. Costs of welfare and relief in Newark keep rising, because of the Negro influx into the city.

As attitudes on race relations in Newark, from an opinion-sampling survey in which Negroes and whites were asked the same questions, it

is interesting to take note of these views. Observe the general conservatism of the white views, for these people, although not native southerners, are now for the first time really having their experience with the race problem. The table quoted here appeared in U.S. News & World Report, April 20, 1959:

Attitudes on race relations in Newark

[From an opinion-sampling survey in which Negroes and whites were asked questions about their racial attitudes]

OPINIONS ON PROPERTY VALUES AFTER NEGROES MOVE IN

| | Whites holding this opinion | Negroes holding this opinion |
|---|--------------------------------|---------------------------------|
| When Negroes move into a white neighborhood, property values: | <i>Percent</i> | <i>Percent</i> |
| Go up..... | 2 | 11 |
| Go down..... | 75 | 33 |
| Do not change..... | 11 | 35 |
| Don't know..... | | 5 |
| No answer..... | 12 | 16 |

PLANS FOR MOVING

| | Whites | Negroes |
|---|----------------|----------------|
| Heads of households who intend to move within the next year said they plan to move: | <i>Percent</i> | <i>Percent</i> |
| Near present location..... | 8 | 21 |
| To another Newark location..... | 18 | 44 |
| To suburbs of Newark..... | 28 | 8 |
| Away from Newark area..... | 27 | 11 |
| No answer..... | 19 | 16 |

SOCIAL ACCEPTANCE

| | Percent agreeing to statement |
|--|-------------------------------------|
| Whites: | |
| Would accept Negroes as close personal friends..... | 15 |
| Would accept Negroes only as speaking acquaintances..... | 65 |
| Do not want to have anything to do with Negroes..... | 15 |
| No answer..... | 5 |
| Negroes: | |
| Would be willing to have some white people for close personal friends..... | 75 |
| Would like to know some to talk to, but not as close friends..... | 21 |
| Would have as little to do with white people as possible..... | 2 |
| No answer..... | 2 |

Source: "Newark, a City in Transition," a study issued by the mayor's Commission on Group Relations.

Levittown, Pa., was the scene of irate white citizens when a Negro family moved in 2 years ago. The New York Times of August 23, 1957, stated that for several nights there had been demonstrations against the Negroes when they moved in. It also stated that a policeman who had been guarding the Negro family was knocked unconscious by a rock thrown by a demonstrator in a noisy crowd.

Gloucester, Mass., on September 13, 1956, also had a taste of bad relations. According to an article in the New York Times of September 14, 1956, one Warren G. McClure, a Negro, residing in Eugene, Oreg., received an offer of a position in the mail as a sixth-grade teacher. He went to Gloucester to take the position. Apparently, it was not known until McClure presented himself that he was colored.

The superintendent of schools in Gloucester, in turning him down, is quoted as saying:

In talking with Mr. McClure it was mutually agreed that his special training and experience could be of greater benefit to another community which may have position vacancies in this field.

It would be appropriate at this point, I think, to include for purposes of the record an editorial entitled "Segregation in the North," which appeared in the *Christian Science Monitor*, July 25, 1956. The central point of this article is that there is no legal segregation in the North but segregation forms the general pattern wherever large groups of Negroes are found. Another key sentence in the editorial reads:

Officials in the North who are trying to force a mixing in the face of such forces of natural selection should be better able to understand why desegregation moves slowly in the South.

[From the *Christian Science Monitor*, Boston, July 25, 1956]

SEGREGATION IN THE NORTH

It is surprising how many Americans believe their principal racial problem is confined to the South. For the fact is that nearly one-third of the Negroes in the United States now live in the North. They are largely concentrated in cities, 12 having a population of 100,000 each and 3 nearly 1 million each. And adjustments are by no means always easy or peaceful, as recurrent disturbances prove.

There is no legal segregation in the North, but segregation forms the general pattern wherever large groups of Negroes are found. Their own desires to live among their own kind, plus economic pressures, tend to restrict them to certain crowded and deteriorating neighborhoods. And since children normally attend schools nearest their homes, segregation naturally governs there, too, as a general practice.

Such segregation, although never touching the experiences of millions of northerners, greatly concerns many city and school officials. In some cases they are attempting to force a mixing of races, even going across normal school zones to do it. The theory is that mixing is itself educational. Directly involved is the old concept of the melting pot as an adjunct of democracy. And there is insistence on the right of equal opportunity.

Considering the official and political efforts to combat segregation in the North, it has proved remarkably persistent. In several respects it resembles a phenomenon American cities have long known—immigrants from abroad forming their own racial or national enclaves, maintaining their own customs and languages, even their own newspapers. Often the forces making for such clannishness come as much from within as from without.

So it is with the American Negro—in the North and the South. Too often it is assumed that segregation is a wholly artificial pattern enforced by unworthy prejudice. Some of it is like that. But much segregation comes about naturally through the same processes of selection which cause individuals to choose like-minded associates or families to seek congenial neighborhoods. And white resistance to Negro migrations within cities arises partly from the fact that such movements are usually in groups, due in turn to Negro desires to have friends or relatives as neighbors.

Officials in the North who are trying to force a mixing in the face of such forces of natural selection should be able better to understand why desegregation moves slowly in the South. So, too, should northern whites who object to their neighborhoods being changed either by racial migration, by industrialization, or by any social force causing deterioration. And possibly, also, Negroes who prefer not to live alone in white neighborhoods, a preference which reduces the opportunity for them to be treated as individuals and centers attention on race.

All of us can deal more wisely with this situation if we recognize that here there are two rights in conflict: One is the right to equal opportunity; the other is the right of the individual to choose his associates. Both are closely

related to the democratic ideal. To enforce either against the other by law takes something away from that ideal. To seek accommodation of the one to the other by voluntary action supports the democratic ideal and is likely to bring the most practicable and enduring solution.

Recently, some attention has been given by the northern press to race problems up North. Perhaps it was that much criticism had been heaped on the northern press generally by responsible elements for failing to present a fair, balanced picture of the problem. In any case, in this group of revealing northern statements about their problem, we see that Fletcher Martin, a Negro, a Nieman fellow at Harvard, wrote in the *Atlantic Monthly* of October 1958 that there is little awareness of the "unpredictable denials" the Negro must undergo in the North. His article is entitled "We Don't Want Your Kind."

In an article appearing in the *Reporter* of February 9, 1959, Marya Mannes has a penetrating article on "School Trouble in Harlem." In it the blackboard jungle is described. Racial prejudice exists here, this self-styled liberal magazine concedes. The article quotes the Rev. Gardner C. Taylor, the only Negro on the New York School Board, as saying: "You can't be a Negro in New York without recognizing it." He also charged: "Wittingly or unwittingly, the [New York School] board has erased the last line of difference between Little Rock and New York." For a northern Negro to make a statement like that, especially after the Little Rock situation had been used as the favorite whipping boy of northern radicals and race mixers on the segregation issue, is worth noting.

Segregation hits the headlines in Illinois again. From that State many knights in shining armor have ridden forth to extol the lily-white virtues of integration. Now let us see what has been happening in a little coal-mining town called Colp. The white community has boycotted the school which was ordered integrated and has been sending the children to all-white schools in neighboring towns. The *Wall Street Journal* of October 15, 1958, comments on the situation this way: "Colp-Standard Elementary School * * * is closed. It now stands as a sort of symbol of the determination of white citizens hereabouts to maintain an old tradition—school segregation." I wish to emphasize the next line now: "Colp's story points up the fact school integration disputes are not limited to States south of the Mason-Dixon line." It appears, also, that many areas in southern Illinois have established a "school of your choice" plan, a type of local option heretofore more characteristic of some areas in the South. This plan allows white inhabitants of predominantly Negro areas to send their children to all-white schools in other sections of town. Negroes attempting to take advantage of the plan, however, claim they are often met by "full-up" signs.

Many examples of social unrest may be seen in the City of Brotherly Love, Philadelphia. In an article in the *Washington Post* on October 27, 1957, case after case of violence, riots, muggings, yokings, and other Negro-white flareups is cited. The headline reads: "Philadelphia Short on Brotherly Love." The lead sentence reads: "* * * 600,000 Negroes and 1,400,000 whites are learning to live side by side—the hard way." How they live side by side in the City of Brotherly Love is illustrated by such stories as these:

Seventeen-year-old Katherine Heckart was returning from a visit with relatives to her south Philadelphia home one evening, October 18. As she walked past a darkened schoolyard, four young Negroes stepped from behind an iron fence, grabbed her, and dragged the screaming girl into the blackness. In the next few moments of terror and brutality she was assaulted and beaten unmercifully. Three of her teeth literally were kicked from her mouth. One of her ribs was broken.

Police arrested the Heckart girl's attackers. A gang of teenage Negroes marched on a white area of south Philadelphia to retaliate for what they considered unfair police action. The rumor fanned out that Negro bands intended to rape six white girls for every Negro youth arrested.

On September 29, 15-year-old William Fluck, a white youngster, was attacked by Negro teenagers in north Philadelphia. In the melee he was stabbed in the back. His spinal cord was severed and he faces probable permanent paralysis.

In contrast to the North, the South has lived with the racial problem for years and knows how to deal with it. On its own, it has made impressive advances. Recently, Dr. John Hannah, the Chairman of the U.S. Civil Rights Commission, which was investigating housing in Atlanta, said: "The Negro housing situation in Atlanta is better than in the North and more progress is being made to improve it." Dr. Hannah is quoted by the Atlanta Journal, April 11, 1959, as saying that "there is very serious discrimination in housing" in his home State of Michigan. He went on: "What has been described here [in Atlanta] is definitely better than what we have in northern cities."

Indeed, in the South we have known for many years that if Negro children are to be educated, the cost of educating them would have to be borne by white people. I live in De Kalb County, Ga., a county whose population now is about 210,000. It was 186,000 in 1950. The city of Atlanta lies in Fulton County and De Kalb County. I want to give you some facts about our treatment of Negro children which may be news to some of you. In 1950, I requested the superintendent of county schools in my home county to give me figures from his records regarding the number of Negro children in our county public school system, the cost of operating those schools, and by whom that cost was paid. These facts were that we had 2,042 Negro children in the county public school system; that the county (not including the State contribution) spent \$85.33 per pupil on white and colored alike, which amounted to \$174,243.86 the county paid toward the education of these Negro children.

His information further showed that Negro property owners in De Kalb County paid school tax upon 1,348 parcels of real estate, total valuation \$357,320, net evaluation after deducting the homestead exemptions \$77,600. Negro property owners paid taxes upon 842 items of personal property, gross valuation \$79,500; net valuation after homestead exemption \$50,750. The Negro property owners thus paid school tax upon \$128,350 of taxable property. Our school tax rate is \$1.50 per 100. The total amount of school taxes paid by those property owning Negroes was \$1,925.35.

The county operated four Negro school buses to haul Negro school-children to the county public schools at an annual expense of \$2,000

each, or a total expense just for school buses of \$8,000. So the total school taxes paid by the Negroes of De Kalb County into the county school system was less than one-fourth the actual money spent by the county to haul their children to the schoolhouses. The \$1,925.35 would have provided less than \$1 per pupil for the 2,042 Negro children who attend the county public schools.

We have known all through the years that we have to carry the tax burden. We have carried it uncomplainingly, and are now carrying it uncomplainingly, because we know that if the burden of educating their own children were carried by the Negroes, they simply would not be educated. In 1956, I asked the county school superintendent to furnish me the same information which he previously furnished me for 1950. In 1956 the State of Georgia paid \$92.35 per pupil for operating purposes and De Kalb County paid \$51.70 per pupil, making a total of \$144.05 per pupil. Of the \$51.70 local payment, the Negro taxpayer paid \$1.93 per pupil; the white taxpayers paid \$49.77 per pupil.

In the past 6 years the De Kalb County Board of Education has spent \$1,377,223.28 rehousing Negro children and purchasing school equipment for them. This represent \$517.95 per Negro pupil in capital outlay.

The value of Negro property in my home county has grown now to \$326,920 and their annual school taxes for 1946 amounted to \$5,124.47, which, as I stated before, amounts to \$1.93 per Negro pupil.

On Sunday, December 11, 1955, De Kalb County dedicated 13 new school buildings; 8 of these were for white children and 5 of them were for Negro children. At this time all Negro children in our county are in new classrooms. All Negro schools meet full standards for accreditation; 17 percent of the Negro teachers hold master's degrees, 75 percent hold A.B. or B.S. degrees, and only 8 percent have less than 4 years of college. No Negro teacher with less than a B.S. degree has been employed in the last 5 years.

In the 5-year period from 1951-55, a \$274 million school construction program was carried out in the State of Georgia. More than half of this school construction, 54 percent of it to be exact, went into construction of Negro schoolhouses. The Negro schools are exactly the same modern, fully equipped schools as the white. In my own county Negroes have fared better than white students, because now all Negro students are in new construction while many white students are still using old schoolhouses.

We name the Negro schools after outstanding Negro citizens, which we believe is an inspiration to Negro children to become good citizens themselves. We also provide for higher education of Negroes. There are Negro colleges and universities in Georgia, and the State has a scholarship assistance.

Such legislation as that which you are now considering would disrupt our peaceful relations. Destruction of our segregated system of schools would carry with it destruction of the opportunities now enjoyed by qualified Negro teachers in the South.

If such legislation such as you are now considering is passed, the situation in places like Washington would be aggravated, for Negroes would be bemused into believing that there is a paradise for them up North, when in reality there is none.

The legislative proposals you are considering would be most damaging to the Negroes themselves. The new laws would encourage the radicals and do-gooders to step up their destructive, meddlesome efforts.

The lengths to which the race mixers will go are ridiculous in the extreme, as illustrated time and time again in this integrated paradise up here in Washington. The race mixers and social levelers in the Washington area have grown bolder by what they fed on in the way of relatively speedy desegregation very shortly after the infamous Brown decision was handed in May 1954. Today the integrationists here are carrying their standard to its absurd conclusion, namely, integration above all, even if it works hardship on the very group of people supposed to be benefited.

A glaring example of this may be seen in the Metropolitan Police Boys' Clubs of Washington, D.C. This worthy private organization was aimed at helping all boys keep away from the streets and steer clear of juvenile delinquency by providing guidance and recreational facilities. Most of the youngsters serviced by the boys' clubs were Negroes—12,000 of them to 8,000 whites before integration. There were nine such clubs in Washington—five were for Negroes and only four were for white boys. Since the desegregation decision, the Boys' Clubs were forced to close 7 out of 9 units because of lack of funds. The organization has been threatened and harassed merely because it has maintained separate facilities for Negroes and whites, rather than jump on the bandwagon with the social experimenters and integrate. I am told that the falling off of income and contributions for the organization from about \$370,000 to less than \$120,000 a year, was due to the fact that the policemen are no longer allowed to take an active part in either the operation of the clubs or the solicitation of funds. The integrationist Commissioners of Washington, D.C., had decided that the policemen, previously very active in the program, could not participate in it because they would then be, in effect, aiding and abetting a segregated organization. Such a thing, of course, under the prevailing mores as decreed by the Supreme Court, was strictly taboo.

I feel that the subcommittee is stacked from a regional standpoint. From knowledge of past activities I do not anticipate that you will be influenced by this appeal to reason and constitutional provisions. I nevertheless do not want to overlook this opportunity to appear before you and denounce this legislation for what it is, namely a brazen attempt to expand Federal bureaucracy at the expense of States rights with an utterly unconstitutional act of Congress.

STATEMENT OF THE AMERICAN JEWISH COMMITTEE ON CIVIL RIGHTS BILLS

The American Jewish Committee, a national organization with 45 chapters or units and members in over 600 communities in the United States, was organized in 1906 and incorporated by special act of the legislature of the State of New York. Its charter states:

"The objects of this corporation shall be, to prevent the infraction of the civil and religious rights of Jews, in any part of the world; to render all lawful assistance and to take appropriate remedial action in the event of threatened or actual invasion or restriction of such rights, or of unfavorable discrimination with respect thereto * * *."

For more than 50 years, it has been a fundamental tenet of the American Jewish Committee that the welfare and security of Jews are inseparably linked to the welfare of all Americans, whatever their racial, religious, or ethnic background

may be. We believe that an invasion of the civil rights of any group threatens the safety and well-being of all groups in our land. Hence, we are vitally concerned with the preservation of constitutional safeguards for all.

Like other organizations that have supported the expansion of civil rights, the American Jewish Committee has testified on numerous occasions before various committees and subcommittees of the Congress and before executive commissions, in favor of civil rights measures. In 1956, we filed statements with the House and Senate Judiciary Committees in support of the bill which eventually became the Civil Rights Act of 1957, the first civil rights legislation enacted by the Congress in 82 years. In February of this year we testified before the Federal Civil Rights Commission with respect to discrimination in housing.

As we see it, there are three principal civil rights proposals now pending before the Congress. The proposals made by the administration have been embodied in one bill in the House of Representatives (H.R. 4457) and in some seven bills in the Senate (S. 942, 955, 956, 957, 958, 959, 960). Senators Douglas and Humphrey, and Congressman Celler have reintroduced bills on which hearings were held in 1958 (S. 810; H.R. 3147). And Senator Lyndon Johnson has sponsored a series of proposals which have been incorporated in a Senate bill but not yet introduced on the House side (S. 499).

The American Jewish Committee believes that there are good features in all three series of proposals, while no one plan appears to contain all the provisions which the American Jewish Committee believes should be incorporated in what hopefully will become the Civil Rights Act of 1959. For these reasons we will indicate in this statement the provisions which we believe should eventually be enacted by this Congress under the authority of section 5 of the 14th amendment which provides "that Congress should have power to enforce, by appropriate legislation, the provisions of this article."

SUPPORT OF SUPREME COURT

Both the administration bills and the Douglas-Humphrey-Celler bills include a statement to the effect that the decision of the U.S. Supreme Court, declaring compulsory segregation in the public schools violative of the equal protection clause of the 14th amendment, is the supreme law of the land.

The American Jewish Committee believes that the Brown decision is both morally and legally right and that it is appropriate for the Congress in a statement of legislative findings in a civil rights bill to make a statement to that effect.

FEDERAL ASSISTANCE

Both the administration bills and the Douglas-Humphrey-Celler bills would provide financial and technical assistance to those communities which had compulsory school segregation prior to May 17, 1954, to help them adjust to the constitutional requirements of a desegregated public school system. Technical assistance would be provided by the Department of Health, Education, and Welfare in connection with plans and programs to desegregate public education, and in dealing with racial problems, tensions, and conflicts.

Certainly many communities are in desperate need of this type of assistance. A number of southern communities have turned to the Federal Government for aid in working out their desegregation problems, but, until now, the Department of Health, Education, and Welfare has had neither legislative nor executive directives to enable it to perform this sorely needed function. The American Jewish Committee believes that the Department of Health, Education, and Welfare is or can be made competent and experienced to provide such assistance and that provisions for such assistance to southern communities should be included in any civil rights bill that is passed by this Congress.

GOVERNMENT-SPONSORED LAWSUITS

The Douglas-Humphrey-Celler bills would empower the Department of Justice to institute lawsuits to enforce citizens' rights to the equal protection of the laws and to end discriminatory practices against individuals in violation of the Federal Constitution when the affected individuals are unable (from fear of reprisals or for other valid reasons) to assert their legal rights themselves. This section is the part III which was stricken from the civil rights bill of 1957 at the time of its enactment by the Senate.

It is difficult to justify the exclusion of a provision of this type, which would establish an effective remedy for rights already declared under existing law.

Since a right without an effective remedy is equivalent to no right at all, it appears to the American Jewish Committee that the Department of Justice should have the power to bring needed actions to enforce the equal protection of the laws guaranteed by the Federal Constitution. It is impossible to justify limiting such enforcement power to voting rights and shrugging off Federal responsibility in connection with other civil rights, including the right to attend unsegregated public schools, likewise protected by the Constitution.

Because neither the Johnson bill nor the administration bills cover this point, the American Jewish Committee believes that the Douglas-Humphrey-Celler bills are superior with respect to this provision.

VOTING RECORDS

The administration bills would require State officials with jurisdiction over voting records to maintain such records for a period of 3 years. In addition the Department of Justice would be empowered to subpoena such records under Federal court orders.

In light of the experience of the Federal Civil Rights Commission when it sought voting records in the State of Alabama last year, where the State legislature passed a law authorizing local registrars to destroy voting records after 30 days, this provision is obviously needed.

The right to vote and have that vote counted in political elections is basic to democratic society. The Civil Rights Act of 1957 and the 15 amendment recognize Federal responsibility to preserve and protect this basic right. It is therefore fitting and proper that the Congress should now take steps to prevent State officials from flouting the right to vote and have the vote counted.

The absence from the Douglas-Humphrey-Celler bills of provision for the preservation and subpoenaing of State voting records is deemed a serious omission by the American Jewish Committee.

BOMBING

Both the Johnson and the administration bills contain provision intended to discourage bombings and attempted bombings of public and quasi-public buildings. The administration bills would make it a Federal crime to cross State lines to avoid prosecution for bombing a building used for "educational, religious, charitable, or civic objectives." The Johnson bill would make it a Federal crime to transport explosives in interstate commerce with knowledge or intent that they will be used against any property employed for "business, educational, religious, charitable, or civic objectives." There is a glaring omission from both proposals. It is hard to justify the exclusion of homes from the types of property which need to be protected by such legislation. This omission is especially conspicuous when it is realized that almost 50 percent of the bombings attempted in the 11 Southern States since the school desegregation decision, was aimed at residences and homes. The American Jewish Committee believes that homes and residences should be afforded the same protection as buildings used for educational, religious or civic purposes.

Another feature of the Johnson bill which commends it is the provision making it illegal to use the mails, telephone, or other interstate instrumentality to spread false information about, or threaten, bombings. Lastly, the provision of the Johnson bill which would authorize the FBI to assist State officials in bombing investigations, whether or not there is evidence of the interstate movement of explosives, and regardless of the nature of the buildings involved provided the mayor or Governor requests such assistance, is a very desirable one. However, we would also give the head of the local police force authority to request such assistance.

On balance, the American Jewish Committee favors the provisions of the Johnson bill covering bombings and attempted bombings, but we would urge that it be broadened to protect homes and residences.

OBSTRUCTION OF JUSTICE

The administration bills would make it a crime for any person, official or private, to interfere by the use of threats or force, with court ordered desegregation of public schools. Recent experiences at Clinton and Nashville, Tenn., and at Little Rock and Hoxie, Ark., clearly establish the need for this provision.

CHILDREN OF MILITARY PERSONNEL

Another novel provision of the administration bills would enable the Federal Government to "make arrangements to provide free public education" if State public schools built in whole or in part with Federal funds are closed to avoid racial integration or if such closed schools normally serve the children of personnel located on military bases.

Closing public schools to frustrate final Federal court orders is not a solution that appeals to the American Jewish Committee. All through our 53-year history we have supported and encouraged the expansion of public education because we believe that bigotry and prejudice are inversely correlated with education. In addition, we have always supported our public school system because we view this as one of the basic unifying factors in American society; the place where children of all religions, all races, and all ethnic backgrounds meet and associate as equals. For these reasons the American Jewish Committee is opposed to the closing of public schools and urges the Congress to authorize the Federal Government to do everything in its power to take over, operate, and support public schools in those areas where they might otherwise be closed to frustrate the Supreme Court's desegregation decision. If this can be done only to provide public education where the children of military personnel are involved, then it should be done in those cases. If, this can also be done by reason of past Federal grants to school construction programs, then it should be done on the basis of such prior Federal aid.

In any event, we believe there is an implied commitment to military personnel that their children will receive public education, regardless of where in the United States the military base may be situated.

CONCILIATION SERVICE

The Johnson bill would establish a Federal Community Relations Service which would function to conciliate racial tensions, conflicts and hostilities, including those rooted in the school desegregation decision. We believe, that mediation, conciliation, and persuasion have a significant role in cases of racial, religious or ethnic tension or conflict. So long as conciliation, mediation, and persuasion are not used as devices to deprive individuals of their constitutionally guaranteed rights and privileges, they should serve to strengthen intergroup relationships. For those reasons, the American Jewish Committee favors the inclusion of Senator Johnson's proposal for a Federal Community Relations Service in any civil rights bill passed by the Congress.

MISCELLANEOUS

Both Senator Johnson's bill and the administration bills would extend the life of the Civil Rights Commission established by the Civil Rights Act of 1957. The former would extend the life of the Commission to January 1961, while the latter would extend it to September 1961—a 2-year extension period. The American Jewish Committee favors the longer period and would hope that by September 1961 the Congress would make a determination that the Civil Rights Commission has a real function to perform and that it should be made a permanent commission in the executive branch of the Government.

The administration bills would also establish a permanent Commission on Equal Job Opportunity under Government contracts. This Commission would take the place of the existing Committee on Government Contracts established by Executive order. Certainly where Federal funds are used to purchase goods or services, the Government cannot tolerate racial, religious or ethnic discrimination in employment. It is proper that the Congress, like the executive branch, should recognize this principle and should establish a permanent Commission which would police Federal contracting agencies to assure compliance with the the nondiscrimination clause now required to be inserted in all Federal contracts for goods or services. We would suggest, however, that the Commission on Equal Job Opportunity be given the power to seek injunctions in Federal district courts to prevent Government contractors from violating the nondiscrimination clause. This sanction will prove much more effective and much less drastic than the remedy now available to the Government—contract cancellation.

The American Jewish Committee believes that the enactment of the Civil Rights Act of 1957 was a major step in Federal recognition of its responsibilities and functions under the 13th, 14th, and 15th amendments. However, we also

believe that the Congress cannot rest on its laurels. It must move forward with the passage of additional, needed legislation which will serve to bring our practices and conduct in all sections of the United States into conformity with our basic principles and constitutional guarantees.

Respectfully submitted.

IRVING M. ENGLE, *President*.

APRIL 13, 1959.

JAPANESE AMERICAN CITIZENS LEAGUE,
Washington, D.C.

HON. EMANUEL CELLER,
*Chairman, Subcommittee No. 5 (Civil Rights), Committee on the Judiciary,
House of Representatives, U.S. Congress, Washington, D.C.*

DEAR MR. CHAIRMAN: As your subcommittee completes its long-drawn-out public hearings and begins consideration of the civil-rights legislation to be reported to the House for approval, the Japanese American Citizens League (JACL) reiterates its well-known advocacy of meaningful civil rights.

We have already joined with the many national organizations of the Leadership Conference on Civil Rights in expressing our general view through authorized spokesmen for the conference in order to conserve the time of this subcommittee, most of whose members have been listening to testimony and arguments on civil rights for the past several Congresses.

JACL submits this letter, however, in order to record its special views on this vital subject.

As the only national organization of Americans of Japanese ancestry, out of our own experiences during the past 2 decades, we are painfully aware of the continuing urgency for effective Federal legislative safeguards for the lives, rights, opportunities, dignities, and properties of all citizens everywhere in our land, without regard to race, religion, color, or national origin.

It was not so long ago that our parents, lawfully admitted for permanent residence, were denied the right to purchase, to own, or to enjoy the beneficial use of land—urban or agricultural—in most Western States. Throughout the Nation, the were also barred from many kinds of employment and from certain businesses and professions. They were unable to apply for naturalization in their adopted land to which they had contributed so much, and for which they gave so many sons in battle. Moreover, further immigration by those of the Japanese race—and all other Asians—were excluded by our Federal statutes.

American-born citizens of Japanese ancestry were unable to enjoy all the benefits of first-class citizenship because of racially discriminatory laws and practices. For a time, Japanese American students too were segregated in the public schools in various communities.

In World War II—during an unprecedented period of hate and hysteria—came our forced removal by the military from our homes and associations—without trials or hearings and on no other charge than the racial affinity of our entire group to the enemy—with its attendant physical and mental suffering and untold loss of real and personal property accumulated over a lifetime of toil and privation, to virtual prison camps in the desert wastelands of the West.

We, who have lived intimately with fear—vigilantism, nightriders, mobs, bombings, burnings—and have experienced the breakdown of the moral conscience of America and of the Federal guarantees of "equal protection of the laws" and "due process," recognize that there can be no real justice for all until law and order prevail—everywhere, for every American, and under any and all circumstances.

We know too that we were called upon to suffer and sacrifice so much because not enough of our fellow Americans throughout the land cared about what happened to our rights and privileges. After all, we were just a tiny minority on the west coast—a special problem that those in that region best know how to handle because we had lived among them so long—and besides, there was a war going on and all Americans had so many other matters to worry about.

The silence of too many Americans provided the consent that those who would persecute and prosecute us needed—and received.

And because of this consent by silence, more than 110,000 human beings—more than two-thirds of whom were native-born citizens—were deprived of their freedoms and liberties and imprisoned behind barbed wire fences in concentration camps, American style.

In this, another hour of crisis for human freedom and dignity, we do not intend to remain silent simply because today we ourselves face comparatively little in the way of discrimination and prejudice, because others with whom we have little association are now the victims of segregation and violence, because the lawlessness and ruthlessness are now taking place in areas far removed from our homes and businesses.

Though we are among the smallest of America's nationality groups, we intend to make our voices heard as best we can—for only when enough people speak out will the Congress and the Executive provide and enforce clear and positive Federal guarantees of the rights and personal safety of all our citizens in a better land where racial violence and distrust is replaced by understanding and cooperation.

In this submission, we bespeak the feelings of our members and others of Japanese ancestry who urge in our national and international self-interest, as well as common decency, that this Congress enact meaningful civil rights legislation.

The continuing defiance and subversion of the decisions of the U.S. Supreme Court in the Deep South, the bombings in both the North, and the South, the return of lynch law last week to Poplarville, Miss.—these and other incidents all serve to remind us that we, as a people and as a Nation, have far to go before we reach our American ideal of equality and brotherhood.

These recent events emphasize the obvious shortcomings of the so-called Civil Rights Act of 1957, which we supported as the only legislation of its character that could have been enacted that session and in the hope that it would establish a precedent for the passage of more meaningful measures after the congressional roadblock existing since Reconstruction days after the Civil War—almost three-quarters of a century earlier—was breached.

While there is no question that current headlines have highlighted the necessity for corrective and remedial legislation for our Negro American citizens—and we are all in favor of this—we feel that it is our obligation to remind this committee and the Congress that whatever meaningful civil rights statutes are enacted will be of benefit to other Americans, too, for racial discrimination and bigotry are not directed against the Negro alone and are not confined to that portion of our country below the Mason-Dixon line.

In addition to the Negro, we know that the American Indian, the Latin-Americans, including Puerto Ricans and Mexican-Americans, the Orientals, and the Jews are among those who also feel that lash of mistreatment and indignity.

We are aware that, during the course of these hearings, there were those who sincerely recommended a piecemeal approach of treating different aspects of this problem in separate measures and on their respective merits.

We are also aware of others, equally sincere, who suggested that this committee report a bill containing only those provisions that had a reasonable chance to be accepted by both the House and the Senate, with the notation that the House historically was more liberal in these matters than the Senate.

In the past, JACL has been persuaded to go along with both of these approaches, even though we have thought that they were defeatist, as a surrendering of objectives before the battle was joined.

JACL now respectfully urges this committee to report out an effective, comprehensive civil rights package that includes all the major civil rights problems in a single, all-inclusive bill.

We believe that many people are sickened and disgusted with the hypocrisy of the situation where in certain sections there are breakdowns of law and order while in other sections discriminatory and derogatory practices are accepted as commonplace.

We believe that the American people are entitled to know just how their respective Congressmen—in both the House and the Senate, and of both parties—feel about every phase of this momentous matter.

We believe that the time has come when every Representative and every Senator should be given the opportunity to stand up and be counted on every aspect of civil rights.

In order that the people may know, we propose that this committee report legislation that embraces the subjects of all of the legitimate, major civil rights

bills introduced in the Congress in the past 10 years. We further propose that a record vote be taken on the floor on each of the individual subjects covered by the legislation.

Only in this way—when each issue is clearly presented and voted individually—will the electorate be properly able to evaluate the civil rights “conscience” of their Congressmen. Compromise and piecemeal measures offer too many opportunities to “explain” or “excuse” a particular vote on a particular subject.

If an omnibus civil rights bill is voted provision by provision, with a record of every vote on the individual provisions, we are confident that a better and more comprehensive civil rights measure will emerge than if one already reduced in scope and effectiveness is presented for consideration. We have the faith that this would be the case in both the House and the Senate.

With the conditions as they are in this country and with the world as concerned as it is, JACL believes that the time for a real showdown on civil rights has arrived. The time for equivocation and evasion has passed. Now is the time for decision.

And the voters in the 1960 elections will express approval or rejection of the voting record on civil rights of their Congressmen if they feel—as we do—that this is among the overriding issues of the day.

In any comprehensive civil rights package, JACL would include the following:

1. The school desegregation bill introduced by the chairman and 12 of his colleagues and by Senator Paul Douglas and 16 others in a bipartisan effort to implement the 5-year decision of the Nation's highest Tribunal that integration in the public schools should take place with all deliberate speed.

2. Equal voting rights, including the repeal of the poll taxes as a prerequisite for voting.

3. Federal fair employment practices.

4. Federal fair housing practices.

5. Equal protection of the laws, including antilynching and antibombing provisions.

6. Desegregation of all public facilities, including such utilities as transportation.

7. Elimination of so-called hate campaigns.

The sordid yet dramatic facts concerning the abuses of each of these acknowledged civil rights and the cogent arguments for their meaningful correction have been testified to by many experts in the field, as well as by their victims, over the many years—especially since the end of World War II—that various civil rights proposals have been the subject of congressional inquiry by this and other committees.

Accordingly, JACL will not burden the record with a recapitulation of these facts and arguments which are well known to the members of this committee. We will add only a few comments concerning this seven-point package.

The crucial importance of education to the survival of our Nation and to bring about compliance with the Supreme Court's decisions is underlined by the emphasis on the so-called school desegregation bills during the public hearings.

JACL agrees that the basis for all the remaining civil rights stems from an enlightened citizenry. And education is the only means of providing adequate enlightenment which will enable all Americans, without regard to race or religion, to exercise the franchise intelligently, to qualify for all types of employment and in all professions, to live harmoniously and cooperatively in all neighborhoods, to promote law obedience and mutual respect, to secure maximum utilization of public facilities, and to advance human dignity.

As far as Americans of Japanese ancestry are concerned, the following is an accounting of how we fare in these various fields:

1. Education: Generally speaking, there is no discrimination as such in this field. We do know, though, that many qualified Japanese Americans find it difficult to be admitted to certain professional colleges and universities, especially medicine and dentistry. Most of the national social fraternities and sororities appear to prohibit the pledging of Japanese Americans.

2. Voting rights: Now that lawfully admitted aliens of Japanese ancestry may become naturalized citizens after the prescribed period of waiting, there are no restrictions on voting by Americans of Japanese ancestry, though occasionally an officious election judge raises unnecessary problems.

3. Employment: Compared to pre-World War II days, when employment for Japanese Americans was limited to few, relatively menial jobs, the situation is

much improved. There is still discrimination, however, in upgrading of qualified Japanese Americans, especially to policy levels.

A number of labor unions, especially in the so-called craft unions, still refuse "equal" or any membership to Japanese Americans.

While the President's Committee on Government Contracts serves a most useful purpose, we believe that it lacks necessary subpoena and enforcement authority. Moreover, its jurisdiction is limited to employment under contracts from the Federal Government. Many of the smaller marginal companies that never qualify for Government contracts are the worst offenders insofar as employment discrimination is concerned.

4. Housing: Though the Supreme Court more than 10 years ago declared racially restrictive covenants to be unenforceable, Japanese Americans find considerable discrimination in the purchase and rental of housing.

Certain exclusive areas and tracts, usually in the suburban territories, bar the sale of homes to Japanese Americans. Certain exclusive apartments, usually in the middle-income group, will not rent to Japanese Americans.

5. Equal protection: Occasionally, we hear of what appears to be unjustified detention and interrogation of Japanese Americans and a hint of police brutality, but these are rare exceptions these days.

6. Desegregation: Japanese Americans are barred from certain clubs and organizations, especially the so-called prestige ones that are social in nature. Many cemeteries will not allow the interment of Japanese Americans.

7. Racial smears: Japanese Americans are the victims of World War II motion pictures that impugn our loyalty and allegiance to our country, are subjected to stereotyping in various media, and are described as "Japs," a racial slur that was devised in the "anti-Japanese" era on the west coast.

Because we are so few in numbers, we continue to be identified with "Japan," the country, rather than as Americans of Japanese ancestry. This creates a number of special problems which need not be mentioned here.

Though not the subjects of bills dropped in the congressional hoppers, there are two other civil rights matters which directly concern Japanese-Americans—and others too—which we commend to this committee for inclusion in any comprehensive civil rights legislation.

They deal with the so-called antialien land laws and interracial marriages.

(a) Antialien land laws: In the early years of this century, California and most of the Western States adopted laws prohibiting "aliens ineligible for citizenship" from owning, purchasing, or having direct or indirect interest in land. The Immigration and Nationality (Walter-McCarren) Act of 1952 removed the racial discrimination against naturalization and thereby nullified these laws. The U.S. Supreme Court, in the Oyama case, struck down as unconstitutional the presumptions of this law against U.S. citizens of Japanese ancestry. A number of State courts, including the Supreme Court of California, declared the law unconstitutional.

Today, only three States have such laws on their statute books—Washington, Arizona, and Wyoming.

This past session, the Legislature of the State of Washington acted to place its law on the ballot at its next general election, November 1960, in order that its voters might remove this racist provision from the State constitution.

The Arizona law applies only to aliens, but the Wyoming law applies to both aliens and citizens.

Though all of these laws are inoperative at the present time, in order that they may be more easily stricken from the statute books, Federal legislation abrogating these obsolete laws as a violation of civil rights would be most helpful.

(b) Interracial marriages: Some 26 States, we understand, have laws prohibiting interracial marriages. In 8 of these 26, even cohabitation of mixed couples is illegal.

This past year, two States, Idaho and Nevada, repealed their so-called miscegenation laws. The California Supreme Court recently ruled the interracial prohibition in that State unconstitutional. The U.S. Supreme Court a few years ago remanded a Virginia case involving both interracial marriage and cohabitation to the supreme court of that State for further consideration.

In States where interracial cohabitation is unlawful, it should be pointed out that this applies, for example, even if the husband is an honorably discharged veteran of our Armed Forces who married a Japanese while overseas and with the approval of his commandant. Their children, if any, are considered illegitimate and the rights of survivorship are in doubt. In other cases, both parties are native-born citizens, but their marriage and cohabitation are equally illegal.

The right to marry one of one's own choice and to live in any State in the Union seems to us a civil right equally as important as any other. We, therefore, urge consideration of this civil right for inclusion in any omnibus legislation on the subject.

All in all, though, compared to the immediate past and to most other minority groups, we today enjoy unprecedented acceptance. This does not mean, however, that we still do not encounter discrimination and prejudice in certain areas of human endeavor and contact.

The enactment of a comprehensive civil rights law will help in alleviating the situation not only for us Japanese Americans but also for all other Americans.

JACL does not and has not suggested that the mere passage of civil rights laws will remove prejudice and bigotry from the minds and hearts of men. But, out of our own experience, we do know that it will go far to restrain men of ill will from committing acts of racial discrimination if they know that by doing so they are liable to fine and imprisonment, or both, from the Federal Government.

Discrimination when sanctioned and sanctified by the law creates a climate that invites further discrimination and lawlessness.

But, when that sanction is removed and those who would practice discrimination know that thereby they would be committing a Federal crime, which the Federal Government will prosecute most certainly to the fullest possible extent, a great deterrent is imposed against all bigots.

Criminals, regardless of their type, are far more fearful of Federal intervention than they are of State and local authorities. And, if certainty of enforcement is added to the Federal character of the crime, we are of the opinion that civil rights will be a meaningful concept and practice in our land.

Most Americans, we believe, hold to the theory of government that only when the States are unable to do what is required in the national interest should the Federal Government step in.

In this particular field of civil rights, the record seems clear enough to us. The States have proven themselves over half a century unable or unwilling to eliminate racial discrimination. Because of their failure, the Congress has no alternative but to enact protective laws to implement the 14th amendment to the Constitution which requires the Congress to enforce "by appropriate legislation, the provisions of this article."

This amendment grew out of the Civil War and was designed to secure and make permanent those human rights, opportunities, and dignities for which millions of brave men and women "gave their last full measure of devotion." This amendment remains today a challenge not only to us in the United States but also to those in the United Nations as the greatest charter of freedom ever conceived by freemen. Its provisions should inspire the Members of Congress as they inspire the free peoples of the world today.

The 14th amendment provided that everyone born or naturalized in the United States was a full-fledged citizen both of the Nation and the State in which he lived. No distinction or differentiation was made between these citizens as to race, color, creed, or national origin. All had equal rights which were presumed to be of equal value and validity. No categories were set up as to first- and second-class citizens. The Jew and the Gentile, the Negro and the white, the oriental and the occidental—all were to have equal rights under the law.

The 14th amendment then went on to proclaim that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The period for the States to act to protect the civil rights of all their citizens is long past. Now it is up to the Federal Government to move in and undertake the responsibilities which the States have been unable or unwilling to assume.

The courts have made the constitutional mandate clear.

It is now up to the Congress to enact the necessary implementing legislation and the Executive to enforce, without fear or favor, the laws protecting the civil rights of all our citizens everywhere in the land.

Not until the Congress and the President act, will the objective set by this amendment 91 years ago, when it was ratified by the necessary number of States to become the 14th amendment to our Constitution, be attained and all Americans be able to live and work in our land in peace and dignity.

Respectfully submitted.

MIKE M. MASAOKA,
Washington Representative

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,
ATLANTA BRANCH,
Atlanta, Ga., April 18, 1959.

HON. EMANUEL CELLER,
*Chairman, House Judiciary Subcommittee,
House of Representatives, Washington, D.C.*

DEAR CONGRESSMAN CELLER: In his appearance before your committee this week the Honorable G. Ernest Vandiver, Governor of the State of Georgia, seems to have given the impression that Negroes are satisfied with the pattern of segregation in our State.

That is not true and in evidence that gross discrimination and intimidation still exist, as president of the Atlanta branch, NAACP, I wish to present some substantiating data.

In the first place, your attention is invited to the attached clipping from the April 17 issue of the Atlanta Journal, which shows that the 1958 Georgia voter-registration law, intended to limit Negro registration, hurts white registration even more. This is true of Fulton County, where officials set up no bars to registration, although we are not satisfied with the manner in which the recent "purging" was carried out. The same is also true of a 1959 law setting minimum age limits to State undergraduate institutions at 21 years of age. The effect has been to practically cut off applications to all State educational colleges and universities.

A summary of voter registration, copy attached, prepared by the statewide registration committee, shows that the number of white voters has decreased, while there has been a slight increase in Negro registration in the State. This is because of organized grassroots efforts of Negro State and local civic and political groups, whereas there are few such efforts on the part of whites.

Other conclusions can be revealed from a study of this report, but the committee has been reluctant to point them out, except in meetings, because the report is given statewide circulation. If it falls into the hands of public officials, moves might be started or reprisals instigated in counties where registration is now being carried on quietly and, therefore, limited. The report, for instance, does not reveal the slowdown tactics provided by the law such as certain registration days, absence of registrars, and the requirement of answers to 20 out of 30 "tough" questions from all applicants, when the law requires it from illiterates only.

Progress made is being done in spite of the handicaps. The NAACP cannot operate freely in most counties of the State because of fear of reprisals. For instance, in Walton County last fall a Negro school principal was forced to resign because he failed to furnish names of the members of the NAACP in the county. Two years ago, in Baldwin County, 14 Negroes who wanted to organize a branch, demanded their money back after an influential white merchant told one of the leaders they could not meet. Therefore, Negroes throughout the State organize under other names and pay dues under anonymous names.

A poignant refutation of the Governor's assertion that "all is well" between Negroes and whites is borne out by the enclosed copy of a presentation to the U.S. Civil Rights Commission by the president of the Empire Real Estate Board of Atlanta. This is a group of Atlanta Negro brokers, who are barred from membership in the Atlanta Real Estate Board (white) and, therefore, from the National Association of Real Estate Boards. The report is supported by exhibits which can be furnished upon request.

The Federal Government has been of little help to Negroes in protecting these rights. Consequently, we are forced to do the best we can under a pattern of strict segregation. The changes which are being experienced are due largely to the small increases in registration and voting. Therefore, it is essential that stronger civil rights legislation, open occupancy in housing, and other strong bars to discrimination, supported by segregation, be adopted and put into effect by the Federal Government to protect the rights of Negro citizens in Georgia.

Sincerely yours,

H. I. BEARDEN,
President, Atlanta Branch, NAACP.

(The matter referred to in this letter is contained in the committee files.)

STATEMENT ON PENDING CIVIL RIGHTS BILLS

Submitted by American Jewish Congress, Jewish Labor Committee, Union of American Hebrew Congregations, Union of Orthodox Jewish Congregations of America, United Synagogue of America, Albany Jewish Community Council, Federation of Jewish Charities of Atlantic City, N.J., Jewish Community Relations Council of Oakland, Calif., Baltimore Jewish Council, Jewish Community Council of Metropolitan Boston, Brooklyn Jewish Community Council, Cincinnati Jewish Community Relations Committee, Jewish Community Federation, Cleveland, Ohio, Jewish Community Council of Essex County, N.J., Community Relations Committee of the Hartford (Conn.) Jewish Federation, Indiana Jewish Community Relations Council, Indianapolis Jewish Community Relations Council, Community Relations Bureau of the Jewish Federation and Council of Greater Kansas City, Community Relations Committee of the Los Angeles Jewish Community Council, Jewish Community Relations Council of Minnesota, Jewish Federation of New Britain, Conn., New Haven Jewish Community Council, Jewish Community Council, Perth Amboy, N.J., Jewish Community Relations Council of Greater Philadelphia, Jewish Community Relations Council, Pittsburgh, Jewish Community Relations Council of St. Louis, Jewish Community Council, Schenectady, N.Y., Jewish Community Council of Toledo, Jewish Community Council of Greater Washington, D.C.

The Jewish organizations joining in this statement include both national organizations and local community councils.

From the mutually reinforcing traditions of prophetic Judaism and constitutional democracy, with their common affirmation of the worth and dignity of the individual human being, we derive a deep shared commitment to equality of treatment and equality of opportunity for all without regard to race, color, religion or ancestry. We strive, accordingly, for the elimination of barriers to such equality in every aspect of our national life.

The extension of civil rights thus is one of our constant long-range objectives. But our immediate purpose in the present testimony is not so much to press for an extension of civil rights as to express our deepfelt concern regarding the urgent need for congressional action "to secure these rights" already guaranteed by the Constitution.

EQUAL PROTECTION OF THE LAWS

For 91 years the guarantee of "equal protection of the laws" has shone forth from our national Constitution as a beacon light of freedom, but it illumines to this day, in shocking contrast to its shining principle, the widespread denial in practice of such equal protection to millions of our citizens. In no other area of our national life is this denial today so flagrant as in the field of public education.

The Supreme Court of the United States, in the proper exercise of its role as interpreter of the Constitution, has declared that segregation of the races in public schools constitutes a denial of that equal protection of the laws which is guaranteed by the Constitution, and that such segregation accordingly is unconstitutional. An obligation devolves upon the executive branch of the Federal Government to exercise its powers to give effect to this determination and upon the legislative branch to clothe the Executive with needed legislative authority.

Judicial procedures ordinarily deemed sufficient to provide relief to individuals denied their constitutional rights are inadequate and in a sense even irrelevant in this connection. The Negro children seeking access to that unsegregated public education to which they are constitutionally entitled encounter not occasional denial of their rights by individual schools or school districts, but a massive, rebuff by those very governments, State and local, whose constitutional duty it should be to protect them in their enjoyment of their rights. In six States of the Union not a single Negro child is today allowed to obtain the kind of education to which the supreme law of the land entitles him.

Here is no mere conflict between opposing private interests, no mere denial of equal treatment to an aggrieved individual. Here is a gross, overt, and sullen challenge to the Constitution and the law of the land. The Negro children denied their rights are indeed injured parties, but to require them to bear the whole

burden of seeking redress of their injury through prolonged and costly litigation, to compete against the massive weight of official State opposition—this is to deride justice and mock truth. Against the individual litigants and their advocates are arrayed the political power of State governments, the threat of boycott, reprisal, ostracism, and personal danger. And these threats, together with other forms of coercion and intimidation, are employed also to stifle and silence all support for the litigants, all advocacy of compliance with the Constitution they seek to uphold.

In these circumstances it is not the rights of individuals alone that are impaired or denied; the very processes of orderly government are challenged and flouted. The Government of the United States cannot assume a posture of neutrality toward compliance with its Constitution. The Congress cannot, responsibly, choose to regard the issue as one for the courts alone or for the Executive alone. It cannot, responsibly, view the continued nullification of law by recalcitrant States, the evasion of court orders, the closing of public schools, the enactment of obstructive State legislation as issues for private litigation. Each day that passes without some clear assertion of the intent of Congress to provide the Executive with necessary power to intervene effectively in upholding the Constitution against those who would substitute the anarchy of interposition for orderly compliance only delays and contributes to the difficulty of the ultimate reestablishment of the rule of law.

Such ultimate reestablishment is inevitable, if only because the alternative is intolerable to contemplate. The question therefore is not whether, but when and how?

The time is already late.

As, to means, we commend reliance upon measures of preventive relief—relief before, not after, the act. Precedents for this are to be found throughout our legal processes. Recourse to injunctive relief is provided for as standard procedure in many statutes, including those protecting the right to vote. Similar procedure should be provided by law in the case of all civil rights, including the right to equal educational opportunity.

In the course of action on the civil rights law of 1957, the Senate deleted a portion, part III, twice passed by overwhelming majorities in the House of Representatives, that would have provided for such injunctive proceedings. Who knows how much of the dismal history of violence and contempt for law, how much of the tragic folly of "massive resistance" of the past 2 years might have been obviated had the Senate not submitted to the threat of the filibuster at that time. Many of us said then that the test of the efficacy of congressional action on civil rights would be supplied by the vote on part III. The Senate failed that test then. The test is still the same. No civil rights legislation can be deemed meaningful that does not come to grips with this issue.

We therefore urge that the 86th Congress take as its principal obligation in the area of civil rights the enactment of legislation authorizing the Department of Justice to seek injunctions against violations of the equal protection clause of the 14th amendment as provided for in section 601 of H.R. 3147.

TECHNICAL ASSISTANCE AND GRANTS IN AID

The responsibility of government is not discharged by the exercise of statutory restraints alone. The transition from a segregated to a desegregated school system poses many complex and difficult problems. We believe that the public interest in orderly compliance places a responsibility upon the Government to lend assistance to those communities that seek to fulfill their constitutional obligations so as to enable them to make the transition as easy, as harmonious, and as rapid as possible.

We believe that the compilation and dissemination of information, the making of surveys, the arrangement of conferences, the provision of specialists' services, grants for the employment of additional teachers and for teacher training courses all can contribute significantly toward this objective and we therefore strongly approve the proposals for such assistance and financial grants. We believe that the program of technical assistance should be as broad as possible and the financial grants not geared to any matching requirement. Accordingly, we favor the provisions for such assistance as embodied in titles II and III of H.R. 3147 as against the more limited assistance proposed in H.R. 4457.

COMMUNITY RELATIONS AND CONCILIATION SERVICES

As community relations agencies, we strongly favor approaches through community relations processes to civil rights problems. We are convinced that differences among men of good will can be conciliated and reconciled through discussion and negotiation, and we therefore favor proposals that would give the Federal Government's sanction or aegis to such discussions.

Such conciliation efforts, however, must have as their primary focus compliance with the law. The demands of those seeking their constitutional rights and the unlawful refusal by others to satisfy those demands cannot be treated as rival claims of equal validity. Constitutional rights are not subject to negotiation.

We believe that experience with State fair employment practices laws offers a guide to the effective use of community relations and conciliation services. Fifteen years of experience with such legislation has shown that the enforcement features of these laws are invoked infrequently and only as a last resort. But that same experience also has amply demonstrated that the existence of the enforcement features is indispensable to the effective utilization of the procedures of negotiation and conciliation, which are incorporated in the laws. Where enforcement powers are known to be in reserve, conciliation and persuasion work. Where such powers are absent, attempts at persuasion are too often futile gestures.

An understanding of the complementary relationship between enforcement and conciliation is reflected in H.R. 3147. This bill provides for sponsorship by the Federal Government of educational programs, the giving of technical and other forms of assistance, the establishment of advisory councils, the orderly involvement of local officials and interested citizens in the development of plans. All these are practical positive community relations approaches. They are wisely embodied in a proposed statute that contemplates the possibility of intransigent noncompliance and empowers the Attorney General, upon written complaint, to institute suits for injunctive relief. With this power known to be in reserve, community relations processes and conciliation efforts may be expected in many, if not most, cases to be fruitful. Without it, the same steps will lend themselves to exploitation by the resisters as devices for endless obstruction and delay.

Provision for a Community Relations Service is also envisaged in S. 499 (not yet introduced in the House). That bill, however, lacks not only enforcement provisions, but even any reference to the school desegregation decisions. Its conciliation provisions therefore may result in civil rights being bargained away rather than enforced.

FEDERAL PERSONNEL

We support the provision in title VI of H.R. 4457 authorizing the Commissioner of Education to operate schools for children of members of the armed services, where local schools are shut down because of the desegregation controversy. We believe, however, that the Federal Government cannot properly differentiate as between its responsibility toward children of Armed Forces personnel and toward children of other Federal employees. Accordingly, we recommend that this provision be amended so as to provide for the education of all children who live on Federal installations, whether military or civilian, or whose parents work on such installations.

We likewise recommend that the provision of H.R. 4457 which authorizes repossession of schools constructed under the impacted areas program, which may be shut down, be amended so as to apply to schools built previously, as well as in the future.

VOTING RIGHTS

One of the major purposes of the Civil Rights Act of 1957 was to protect the rights of all qualified citizens to vote. Experience has demonstrated, however, that additional legislation is needed if that purpose is to be effectuated. The refusal of some State and local authorities to permit inspection of voting records has prevented effective investigations and has thus rendered relatively ineffective the powers granted to the Department of Justice under the act. Accordingly, we favor legislation that would assure the Department access to voting records. In view of the attempts in some States to circumvent the purposes of the law through the destruction of voting records, we particularly recommend approval of that provision of title III of H.R. 4457 which would require that such records be preserved for 3 years.

CIVIL RIGHTS COMMISSION

We have learned from our own efforts that a temporary sporadic approach is inadequate in seeking solutions to civil rights problems. Accordingly, we have long favored the establishment of a permanent Federal Commission on Civil Rights charged with the continuous appraisal of the status of civil rights and the efficacy of the machinery with which we hope to improve that status. The Commission established under the Civil Rights Act of 1957 represented an initial step in this direction and, while it has not yet realized the hopes we held out for it, we nevertheless believe that its termination in September of this year, as scheduled, would represent a backward step. We therefore support proposals for extending the life of the Commission and we recommend that the powers of the Commission be broadened so as to permit investigations of all denials of civil rights.

GOVERNMENT CONTRACTS

We are of the firm belief that every American should be assured an equal opportunity to seek and to hold employment in accordance with his ability, without discrimination because of race, religion, color, national origin, or ancestry. To this end, we have supported and continue to support proposals for fair employment practices legislation on the Federal, State, and municipal levels.

Even those who entertain reservations regarding such legislation in respect to private employment, can scarcely question the obligation of the Federal Government to assure equal employment opportunity on work performed under Government contract out of funds paid for by all taxpayers. Since 1941, by Executive order of three successive Presidents, Government contracts have included a clause prohibiting discrimination in work performed under the contract. It is time that this policy be given statutory recognition by the Congress, as is proposed in title V of H.R. 4457.

Although the President's Committee on Government Contracts and its predecessor agencies have made progress in eliminating employment discrimination, they have lacked the authority necessary for the realization of this goal. It would seem pointless to give the Committee a statutory base without at the same time giving it the powers necessary for effective implementation of its mandate. Accordingly, we recommend amendment of the pending bills so as to provide the proposed Commission on Equal Job Opportunity Under Government Contracts with authority to issue subpoenas, to hold hearings, and to issue cease and desist orders enforceable in the courts.

May 17 marked the fifth anniversary of the Supreme Court decision outlawing segregated public education. We earnestly hope that this Congress will commemorate that historic occasion by enacting a civil rights bill that will assure effective implementation of that decision "with all deliberate speed."

STATEMENT OF POLICY ON CIVIL RIGHTS AND CIVIL LIBERTIES

Policy statement No. 21 of International Longshoremen's and Warehousemen's Union 13th biennial convention, Seattle, Wash., April 6-10, 1959

Repressive legislation, witch hunts, discrimination against minorities, and attacks on militant unions and their leaders have all been used to weaken the people's efforts to gain a better life through the democratic process.

The struggle to preserve and strengthen democratic rights, then, is a basic part of the continuing struggle to advance the welfare of the people.

In recent years some progress has been achieved in the field of civil rights and in the closely related area of civil liberties. Much of the improvement came as a result of Supreme Court holdings: The historic school desegregation ruling and a series of subsequent decisions in favor of individual liberties. While the Supreme Court is to be commended for its role, it is equally important to warn that its decisions can be dissipated by congressional action or lack of enforcement by the executive branch of Government.

During the last session of Congress, legislation aimed at curbing the Supreme Court or overcoming many of its civil liberties rulings was only blocked by a single vote in the Senate. These same bills are again being pushed by a coalition of Dixiecrats and other reactionaries. One such bill has already slipped through the House without debate or a record vote.

Powerful support for a confessional hatchet job on the High Court has now come from the house of delegates of the American Bar Association. This body

has called for amendments to strengthen the Smith Act, restoration of State sedition statutes, restriction of the right to travel, and toughening of other repressive laws. Likewise, the American Bar Association commended the Un-American Committee and the Senate Internal Security Subcommittee, and urged Congress to rewrite their charters so as to get around Supreme Court strictures. These recommendations will be given considerable weight by many Congressmen.

As against the unhealthy congressional situation applying to civil liberties, the outlook for civil rights is somewhat more favorable. Liberal Congressmen are moving for additional legislation to strengthen rights under the 14th amendment, particularly the implementation of school desegregation. But liberals are divided on how far to go, with the prospect that a meaningless compromise bill will be the final outcome.

The ILWU vigorously supports the Celler-Douglas-Morse bills. Their enactment is needed in order to throw the weight of the Government behind the Supreme Court desegregation decision by empowering the Attorney General to seek court orders to enforce all rights denied because of race.

We demand the vigorous enforcement of all civil rights laws and of the U.S. Supreme Court decisions.

AMALGAMATED MEAT CUTTERS AND BUTCHER WORKMEN
OF NORTH AMERICA,
Chicago, Ill., March 26, 1959.

HON. EMANUEL CELLER,
*Chairman, Subcommittee No. 5, Committee on the Judiciary,
U.S. House of Representatives, Washington, D.C.*

DEAR MR. CELLER: The Amalgamated Meat Cutters & Butcher Workmen of North America, AFL-CIO, did not request time to appear before Subcommittee No. 5 of the Committee on the Judiciary because we did not want to prolong the hearings on new civil rights legislation. We firmly believe that this legislation must be enacted as swiftly as possible. Long, drawn-out hearings obviously prevent the achievement of such a goal.

We consider civil rights legislation to be one of the most pressing legislative needs which Congress must meet in 1959. The press chronicles almost daily the terror and abuses which occur as a result of the lack of firm action to bring about an equality of rights among all of our citizens. These situations cry for change.

We are happy to endorse the bill which you have introduced, H.R. 3147. In our opinion, it most effectively meets the problems now before our Nation in the civil rights field. Its approval of the Supreme Court's decision is to be hailed. Its reintroduction of part III of the civil rights bill of 1957 is desperately needed. Its provision of "last resort" machinery to permit the enforcement of the law is of great importance, not only to assure equal rights, but also to prevent the type of flouting of law, which has, unfortunately, occurred in recent years.

The measure sponsored by the administration and the leadership of the other Chamber have some good points, but they are very disappointing. They would have the Nation speak softly to those who refuse to permit equal rights and to those who perpetrate crimes to prevent equal rights.

Our Nation has an obligation toward its own citizens and toward the free world to assure equal rights for all Americans. We need not burden you with instances of how the United States is harmed both domestically and internationally by the existence or racist discrimination. That has been ably documented in testimony before your subcommittee.

But we would like to emphasize that our Nation cannot exist when some of its citizens do not share the rights which belong to all Americans. And we cannot fight tyranny abroad when some of our citizens are bound by a tyranny of legally enforced prejudice and discrimination.

We believe that H.R. 3147 will go far toward bringing about the much-desired goal of equality of rights and opportunities in our Nation. Less than this legislation will fail to achieve the objective. We, therefore, urge the speedy approval by the subcommittee of H.R. 3147 and its speedy enactment by Congress.

Sincerely yours,

THOMAS J. LLOYD,
President.
PATRICK E. GORMAN,
Secretary-Treasurer.

DETROIT, MICH., May 21, 1959.

Representative EMANUEL CELLER,
Chairman, House Judiciary Committee,
House Office Building, Washington, D.C.:

Growing defiance of law and order marked by recent occurrences of violence and terrorism emphasize the need for speedy enactment of the pending Celler-Douglas Civil Rights Bill. Passage of this bill will be of more assistance in restoring law and order in the South than thousands of speeches or bayonets.

We strongly urge that your committee do everything within its power to aid the passage of this legislation.

AUGUST SCHOLLE,
President, Michigan State AFL-CIO.

BATON ROUGE, LA., April 23, 1959.

COMMITTEE OF THE JUDICIARY,
House of Representatives, Washington, D.C.:

The entire so-called civil rights legislation is based on a false premise and that false premise is that there is a 14th amendment and a 15th amendment to the Federal Constitution.

Walter J. Suthon, Jr., in his article "The Dubious Origin of the 14th Amendment," which appeared in the Tulane Law Review, a copy of which is being mailed to you, proves that if the amending provisions in the Constitution are properly enforced, there is no such thing as a 14th amendment, as the 14th amendment was adopted in gross violation of the procedure for amending the Constitution specifically provided in article 5 of the Constitution.

If the ratification of the 13th amendment by the legislatures of the Southern States is valid, the refusal to ratify the 14th amendment on the part of these same legislatures is valid.

If the first section of article 3 of the Constitution is valid, the third paragraph of section 2 is valid. If article 3 is valid, article 5 is valid. If the 5th amendment is valid, the 6th and the 10th amendments are valid. If the first article and the second article are valid, the second paragraph of the sixth article is valid. If the 6th article and the 10th amendment are valid, the Federal Government has no power other than that specifically delegated to it by the Constitution; therefore, if the 14th amendment was not enacted in pursuance of the Constitution, it is invalid.

I hope you will make this telegram and Mr. Suthon's article a part of your record.

PAULSEN SPENCE.

[Article is retained in committee file.]

NEW YORK, N.Y., April 27, 1959.

Hon. EMANUEL CELLER,
Chairman, House Judiciary Committee,
House Office Building, Washington, D.C.:

The brutal beating, kidnaping, and probable lynching of Mack Charles Parker in Poplarville, Miss., on April 25 offers tragic demonstration of the need for strong Federal civil rights legislation to protect the lives and rights of American citizens in areas where State and local authorities are either unable or unwilling to do so. This crime is the natural consequence of an organized campaign of law defiance led by Governors of States, Members of the U.S. Senate and House of Representatives, and State and local politicians. These and their followers have been encouraged to lawlessness by the delays, parliamentary chicanery, and political shenanigans on the Federal level. We believe the protests by Congressmen over this crime should be as widespread and vociferous as those made by them against the recent executions under the new Castro regime in Cuba. National Association for the Advancement of Colored People urges prompt action by your committee on legislation which would enable the Federal Government to enter in such murderous breakdown of law enforcement as that at Poplarville.

ROY WILKINS,
Executive Secretary.

ST. LOUIS, MO., *May 6, 1959.*

Congresswoman LEONOR SULLIVAN,
House Office Building, Washington, D.C.:

The conclusive evidence of the shocking lynching of Mack Parker in Mississippi demands immediate action. It is imperative that a strong civil rights bill be enacted by Congress without delay to provide the effective machinery for the protection of the civil rights of all citizens. I urge you as the elected Representative from a district with a large constituency from the Negro community to take a strong and outspoken stand on this issue and actively work for passage of legislation such as House bill 3147 introduced by Congressman Celler to meet this problem.

MARGARET BUSH WILSON,
St. Louis Branch, NAACP.

ST. LOUIS, MO. *April 30, 1959.*

HON. LEONOR SULLIVAN,
House Office Building, Washington, D.C..

I want you to speak out for a strong civil rights bill in this session of Congress. With the deplorable lynching that happened in Mississippi we must have a strong civil rights bill this year, also an antilynching bill. I am a member of the executive board of the NAACP, St. Louis chapter, and past president of the National Alliance of Postal Employees, St. Louis branch.

HERBERT L. TAYLOR, *St. Louis, Mo.*

STATEMENT ON CIVIL RIGHTS BY REPRESENTATIVE LESTER HOLTZMAN ON BEHALF
OF THE LIBERAL PARTY OF NEW YORK STATE, SUBMITTED TO THE HOUSE JUDICIARY
COMMITTEE

The section on civil rights in the Liberal Party's national legislative program for 1959 has this to say:

"The United States should be the leading exponent of freedom—freedom from poverty, freedom for political and social change, and freedom of equality for men of all races and religions. If we are to be successful missionaries of freedom to the rest of the world, we must learn to live in freedom ourselves. The unfinished work of our democracy is to insure the civil rights of all our citizens by eliminating all manifestations of segregation and discrimination.

"We were encouraged by the enactment in the 85th Congress of the first Civil Rights Act in 82 years. Although the Civil Rights Act of 1957 is inadequate and but a short step toward needed and desirable legislation, it was nevertheless a step in the right direction. It is regrettable that, despite the compromise nature of the bill and the seeming support given by southern political leaders to the principle of the right to vote, many such leaders are impeding implementation of the law. In several Southern States steps have been openly taken to circumvent the law and to prevent Negro registration and voting.

"It is most unfortunate that the Civil Rights Commission and the Civil Rights Division of the Department of Justice established by the Civil Rights Act of 1957 have been tardy and timorous in carrying out their mandates. The law originally gave the Civil Rights Commission a lifespan of 2 years, until September 1959, yet the Commission did not initiate its first investigation until recently, and it appears to be more concerned about convincing the public of its neutrality on the issue of segregation than it is in securing compliance with the law. It has created State advisory committees but has not moved expeditiously as regards investigations, public hearings, and the use of its subpoena powers to compel testimony or disclosure of records at such hearings. [Most of its members have indicated a desire to resign.]

"The Civil Rights Division [of the Department of Justice] has done little to acquaint citizens with the provisions of the law or procedures for redress of grievances as to their voting rights. It has initiated only one suit despite rampant denials of the right to vote and the ample authority it enjoys under the law.

"While progress toward desegregation of public schools in compliance with the Supreme Court decision is being made, resistance to the law of the land continues and has been intensified in some States. In light of official defiance

of the law, it is not surprising that extremists such as the Ku Klux Klan and the White Citizens Councils commit acts of violence and terror. The bombings of homes, schools, and places of worship demonstrate once again that flouting of law by political leaders leads to a spread of lawlessness both geographically and as regards its victims.

"Court orders are not self-implementing. The executive branch of Government has a responsibility to see that court decisions are carried out. The President has not sufficiently exercised the great moral authority, prestige, and influence of his Office in support of the Supreme Court decisions. Such action would encourage the many persons and groups throughout the country, including the South, who believe in orderly compliance with the Supreme Court ruling and would form an effective force under his leadership to bring about such compliance."

The Liberal Party at this time urges that the bill sponsored by Chairman Emanuel Celler be favorably reported to the House by the Judiciary Committee, and that every effort be made to secure passage of this measure, especially with regard to the reinstatement of title III, which authorizes the Attorney General to initiate civil actions against those who deprive anyone of civil rights on account of race, color, religion, or national origin.

The Liberal Party further urges the enactment of the measure introduced by Representative William M. McCulloch making mandatory the retention of voting records for a period of 3 years.

BARNETT, JONES & MONTGOMERY,
Jackson, Miss., April 27, 1959.

COMMITTEE ON CIVIL RIGHTS,
U.S. House of Representatives, Washington, D.C.

GENTLEMEN: For reasons beyond my control, I am unable to get to Washington in person to make a statement of my conclusions as to the propriety of the passage of H.R. 3147 now pending before your committee and commonly referred to as the civil rights bill. Therefore, I take this means of expressing to you my views in regard to the matter.

This bill is evidently the product of the crosscurrents of ideas that are now swirling and cutting through each other in an attempt to form a weak equalitarian stream of thought which to my mind is a Gulf Stream in reverse; that instead of encouraging and producing warmth and light to our race, brings color and eventual death to superior peoples. This bill is fundamentally based on the false idea of equality, a doctrine that proclaims all races of men are equal, biologically, mentally, and socially, and the premise is basically false.

Politically, economically, and in courts of justice, all men have the same rights and should indeed be equal, but socially a distinction should be made. The upright, honorable, and decent citizen does not care to associate with the criminal, the renegade, and the ne'er-do-well. Who will deny that this social distinction is not only right, but that society would be in danger of destruction if the best citizens associated with its disreputable members and condoned their malefactions and their failures?

Thomas Jefferson, when he spoke of all men being free and equal, did not mean that all men were equal. He evidently knew that the man who sat around the tavern guzzling ale most of his time was not equal to the farmer who tended his crops, took care of his family, and lived honestly and industriously. Thomas Jefferson knew that a man who was honest and did his best was superior to the man who was dishonest and who shirked his duty. Thomas Jefferson knew that there were thousands of differences between individuals that law, education, and theorizing can never make level. When he said that men were created equal, he did not mean that they were equal in parts, that they were equal in mentality, that they were equal morally, or that they were equal in any way except that they should have the right to life, liberty, and the pursuit of happiness, and that they should be equal under the law and that their civil rights should be equal.

If we force integration in our schools and in public places, we are not going to raise the Negro race, but I can guarantee that the white race will be lowered to their level in not less than three generations. The integration of the races in our schools and public places is the surest way I know to accomplish it.

Democracy has never been perfect. In fact, it is an imperfect form of gov-

ernment, but it is the best kind of government mankind has developed so far, and we must take it with its imperfections. Since democracy does not mean social equality, but political justice and equality before the law, it is hard to see where the colored citizens of this country have been so discriminated against. Those who are agitating the passing of this bill should reflect and remember the Reconstruction era in the South and the sad consequences then of excessive haste in Negro advancement. Progress in Negro employment and advancement in the economic world of the South has to be gradual.

The blending of all races into one race is against the law of evolution. Evolution started with homogeneity. All forms of life have developed from simple homogeneous organisms into heterogeneous and highly complicated forms. The evolutionary process has led to extreme specialization. The white race is a highly specialized type and is differentiated in varying degrees from the other varieties of humankind. This variation and specialization is in accordance with nature's laws.

If through social and ideological pressure we attempt to change the course of nature by producing a race of men in which all would be equal in color, in aptitude, in physical appearance, and in mental ability, we will have brought down to a dead level those highly specialized human beings who in the course of their evolutionary progress have evolved a superior civilization.

The whole world would suffer if the Caucasian race with its initiative, its inventiveness, its superb intelligence, and high moral conceptions and ideological philosophy—if the race shall produce superior men—is to be weakened by the introduction into its hereditament of the genes of an inferior stock, for the white race to submit to this process is to commit race suicide. What a reflection it is upon the white race for solid, substantial white people, in authority, to advocate this civil rights legislation and through the power of the white race attempt to set in motion this destructive force that is sure to annihilate the white race.

The danger we face is not so much an armed revolt of the darker races but the complacency and misunderstandings and erroneous conceptions of the Caucasians themselves. Instead of asserting and maintaining the superiority of the Caucasian race for their own good and the eventual good of all the world, some are willing to deny that superiority and to sacrifice their own racial purity in order to support an ideology that seems logical and is idealistic. The danger that confronts the white race comes from within, not from the hordes of docile, ignorant, and uncivilized colored people.

I enter my dissent to what is said on page 3, line 16, of the proposed act, where it is stated: "The Constitution as declared by the antisegregation decisions is the supreme law of the land."

Article VI, clause 2, of the Constitution does not provide that such decisions shall be the supreme law of the land, but rather that the Constitution and all treaties made under the authority of the United States and the laws of the United States which shall be made in pursuance thereof shall be the supreme law of the land. If the Constitution, when construed by a decision of the Supreme Court, becomes as thereby construed the supreme law of the land, then in that event the Supreme Court's decision in *Plessy v. Ferguson* (163 U.S. 537) had already become established as a part of the Constitution and "the supreme law of the land" in providing for separate but equal accommodations in the schools for the races as being in full compliance with the 14th amendment. This decision then would have been "the supreme law of the land" and conclusively binding upon the Supreme Court, and if the principle enunciated be true, then the Supreme Court was without power to overrule *Plessy v. Ferguson* by its decision in *Brown v. Board of Education*, wherein the Court viewed its role to be for the steering of the law rather than to be steered by it.

Title 2, section 201(a) of the Civil Rights Act authorizes the assembling, publishing, and distributing of propaganda for brainwashing our citizens to change our mores and our way of life and by propaganda and constant suggestion to force into the minds of our citizens an unwilling acceptance of false principles that have been proven false by the experience of the human race and the history of all mankind.

Title 2, section 201(b) provides for the making of surveys that will constitute nothing short of legalizing trespass and an unlawful gestapo snooping into the schools and school records of the State, which schools are wholly supported by local taxation, and by such gestapo methods gather statistics that may be

distorted, as was the law in the Supreme Court decision in *Brown v. Board of Education*, and used in suppressing and forcibly crushing the natural and God-given desire of the white race to preserve its racial integrity.

Title 2, section 201(c) provides for local, State, and regional conferences to serve as a brainwashing school where the State and local officials will be required to attend and absorb the propaganda there supplied and thereby put under duress those unwilling to receive their brainwashing treatment to the end that they may be eventually overwhelmed by pressure and surrender to racial suicide.

These gestapo brainwashing methods remind us of the picture that we see when we stand upon the rim of the Grand Canyon observing the enormous result that has been occasioned by the mere removal of one little particle of stone or sand at a time. We cannot but contemplate the vastness of the result, and it is difficult to picture how this was accomplished by repeating the act of removing one small particle of stone at a time. We are producing a "Grand Canyon" here that will make a scar upon our civilization that will never be removed. Our people are good, substantial people, but insistent and persistent propaganda remind us that the falling of drops of water will at last wear away the very hardest of stone.

I bitterly oppose the integration of the races in our schools, in public recreation facilities, or elsewhere. Integration is certain to lead to intermarriage. Intermarriage means amalgamation of the races; and the result of that is mongrelization.

Vice is a monster of so fearful mien
As to be hated needs but to be seen;
Yet seen too oft, familiar with her face
We first endure, then pity, then embrace.
—Alexander Pope.

The Scripture tells us God made man to have dominion over the land and over the sea and all therein and thereon. Man in his development of wisdom has learned to trace the stars and to search the heavens for power. He has split the atom and has launched satellites into outer space that travel in orbit around the earth. Such is the handiwork of the white race.

But if you force integration, the hand of Congress will surely slant back the brow of coming generations and with its breath blow out the light within the brains and place upon their backs the burdens of the world. The race will soon go back to the era of jungle, and there shall then exist a race that is stolid and stunned, incapable of grief or hope, and dead to rapture and despair. No, we have come too far from the jungle to be forced back into it now. I will have no part of it. I shall fight it with all my might and with all my zeal so long as breath remains in my body and even a remnant of the right of free speech remains in the land. As to those who seek to force integration upon our mutual Caucasian race, I can only pity them and pray as did Jesus on the cross when he, too, was being crucified: "Father, forgive them, for they know not what they do."

Respectfully yours,

ROSS R. BARNETT.

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, March 11, 1959.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives,

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to four bills of the 86th Congress:

(a) H.R. 351, to protect the rights of individuals to be free from discrimination or segregation by reason of race, color, religion, or national origin.

(b) H.R. 619, to secure, protect, and strengthen the civil rights accruing to individuals under the Constitution and laws of the United States.

(c) H.R. 4169, to establish a Commission to be known as the Commission on Equal Job Opportunity Under Government Contracts.

(d) H.R. 4457, to further secure and protect the civil rights of all persons under the Constitution and laws of the United States.

The Secretary of Defense has delegated to the Department of the Air Force the responsibility for expressing the views of the Department of Defense thereon. The purpose of each bill is as stated in the title of the bill.

H.R. 351 and H.R. 619 raise questions of broad policy not of primary concern to the Department of Defense. Therefore, this Department refrains from commenting on the merits of these bills and defers to the views of agencies more directly concerned, particularly the Departments of Justice, and Health, Education, and Welfare.

H.R. 4169 and H.R. 4457 are based upon recommendations made by the President to the Congress on February 5, 1959 (House of Representatives, Doc. No. 75, 86th Cong., 1st sess.), and are both endorsed by the Department of Defense.

With respect to testimony on the above bills, the Department of Defense defers to the Departments of Justice, and Health, Education, and Welfare, which are more directly concerned with the subject matter involved.

The budgetary effect, which the enactment of any of these bills would have upon the Department of Defense, is most difficult to assess; however, it is believed that there would be little or no financial burden imposed by enactment.

This report has been coordinated within the Department of Defense in accordance with the procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

LYLE S. GARLOCK,
Assistant Secretary of the Air Force.

CIVIL AERONAUTICS BOARD,
Washington, March 4, 1959.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This will acknowledge your letter of February 26, 1959, suggesting that the Board testify in the hearings scheduled by subcommittee No. 5 on civil rights legislation.

Inasmuch as the Board has had relatively few complaints by airline passengers with respect to discriminatory practices in air transportation and does not believe that they present a serious problem in the air transportation industry, it does not appear that the Board is in a position to offer the subcommittee assistance in connection with its consideration of this matter.

Under the circumstances, the Board does not plan to have a representative present.

Sincerely yours,

JAMES R. DUFFEE, *Chairman.*

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